83-465

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

EDWARD RONWIN,

Petitioner,

vs.

SUPREME COURT OF ARIZONA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

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QUESTIONS PRESENTED FOR REVIEW

1. Consistent with the Fifth and Fourteenth Amendments, can an application for admission to the State Bar of Arizona be denied by the novel technique of "trial by judicial notice" of Petitioner's allegations in pleadings and briefs in United States District court cases which were never tried; in which the District Courts held that they lacked subject matter jurisdiction and which cases were never before Respondent Court for adjudication; and, when no notice was given to Petitioner of what charges or allegations Respondent wished to examine and when Respondent refused any hearing thereon?

2. Are Respondent's standards for determining mental ability to practice law rational when said standards ignore expert medical determination and substitute Respondent's view of untried and untested allegations of Petitioner in documents filed in cases not before Respondent for adjudi-

cation even though Respondent admits that the expert medical evidence holds Petitioner to be mentally able to practice law?

OTHER PARTIES BELOW

There are no other parties below.

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TABLE OF AUTHORITIES

Constitution, Statutes and Rules

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PETITION FOR A WRIT OF
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SUPREME COURT OF ARIZONA

_____

OPINIONS BELOW

The judgment of the Arizona Supreme Court was entered on July 6, 1983, In the Matter of Edward Ronwin, Cause Nos. SB 52-8/52-9, and is reproduced in the Appendix.

JURISDICTION

Jurisdiction to review this matter is

lodged in this Court by the terms of 28 U.S.C. §1257. See also, District of Columbia Court of Appeals v. Feldman, ___U.S. ___, 103 S.Ct. 1303, 1314-1316 (1983). This Petition is filed within 90 days after July 6, 1983.

CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution,

First Amendment:

Congress shall make no law..abridging the freedom of speech, or of the press...

Fifth Amendment:

No person shall..be deprived of life, liberty, or property, without due process of law...

Fourteenth Amendment: Section 1.

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due

process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Arizona Revised Statutes,

Rules of the Arizona Supreme Court,

Vol. 17 A, A.R.S., Rule 28(c)IV(3)

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:...

3. That he is mentally and physically able to engage in active and continuous practice of law;....

STATEMENT OF THE CASE

In December, 1980, Petitioner ("Ronwin") filed his eighth application for admission to the Arizona State Bar directly with Respondent as required by Respondent in 1977. For the first time since February, 1974, and after denying 5 applications without hearing, Respondent permitted Ronwin to

take the February, 1982 Bar examination; which Ronwin failed. Ronwin then filed his ninth application which was consolidated with the eighth and Ronwin took and passed the July, 1982 Bar examination. However, Respondent had not yet determined Ronwin's "mental ability to practice law." A hearing master was appointed; a stipulation was agreed to by Ronwin to allow the master to decide Ronwin's "mental ability" on the matters of record in the eighth/ ninth application, which, as to the question before the master, consisted mainly of the reports of 3 medical experts, each concluding that Ronwin was "mentally able." The hearing master agreed that on the medical records Ronwin was "mentally able;" but, taking untried and untested allegations in Ronwin's pleadings filed in civil rights actions in United States District Court for the District of Arizona with

which he disagreed, the master concluded that Ronwin was "not mentally able."

Subsequent proceedings resulted in Respondent's order of April 27, 1983 vacating the Stipulation and the Master's Report and declaring that Respondent would "make an independent review of fact and law" in Ronwin's case. Said order of April 27, 1983, is reproduced in the Appendix, p. 55-57. Per said order, the review was to be based on the records in all applications filed by Ronwin with Respondent and the records of the cases filed by Ronwin in United States District Court for the District of Arizona and on the medical reports on Ronwin's mental ability. However, Respondent exclaimed that it would do, what Respondent had rejected in the Master's Report; i.e., "In considering its own records and the files of the district court actions, [Respondent] proposes insofar as possible to take judicial notice of the

matters contained in each file." Appendix, p. 56 . Said order also gave Ronwin 15 days to file a "written memorandum in support of his position with regard to any of the foregoing matters and with regard to the issues presented from the record;" and, Respondent allowed Ronwin to "present in writing..any factual matter which [Ronwin] wishes [Respondent] to consider as part of the record..", Appendix, p. 56-57.

By lengthy motion, a small part of which is reproduced in the Appendix, p. 57-59 , Ronwin objected to Respondent's intended procedural formula and requested that the specifics of any charges against Ronwin be made known to Ronwin, and that Ronwin be given an evidentiary hearing in which Ronwin could call witnesses and cross-examine adverse witnesses and have an impartial decisionmaker, Appendix, p. 58-59 . By order of May 25, 1983, reproduced in the Appen-

dix, p. 60 , Respondent disregarded Ronwin's demand for due process; and, in its decision of July 6, 1983, Appendix, p. 1, et seq., Respondent declared Ronwin not "mentally able" to practice law using "trial by judicial notice" of Ronwin's untested and untried allegations in pleadings and briefs in United States District Court cases which were never within Respondent's jurisdiction and, in the process, used tests or standards for mental ability which are (i) irrational, and (ii) thinly veiled assaults on Ronwin's First Amendment rights.

Ronwin was admitted to the practice of law in the State of Iowa on June 13, 1974 and actively practices law in Iowa.

REASONS FOR GRANTING THE WRIT

1. Can Respondent deny an application for Bar admission without adequate notice and without hearing and declare an applicant mentally unable to practice law using the

technique of "trial by judicial notice?"

In Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232, 238, 77 S.Ct. 752, 756, 1 L.Ed.2d 796 (1957), this Court barred exclusion from the practice of law by manners or for reasons which contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment and required that qualifications demanded of Bar applicants, and presumably the standards and tests therefor, have a "rational connection with the applicant's fitness or capacity to practice law,"353 U.S. at 239, 77 S.Ct. at 756. In Greene v. McElroy, 360 U.S. 474, 492, 79 S.Ct. 1400, 1411 (1959), this Court declared the right to follow a chosen profession free from unreasonable governmental interference to be within the compass of the liberty and property concepts of the Fifth Amendment. The Court eloquently reminded us of the due process principles which govern determin-

ations of the right to pursue a profession, Greene, 360 U.S. at 496-497, 79 S.Ct. at 1413-1414. This Court has explained that the right to enjoy property without unlawful deprivation, no less than the right to speak or to travel, is a "personal" right, Lynch v. Household Finance Corp., 405 U.S. 538, 552, 92 S.Ct. 1113, 1122, 31 L.Ed.2d 424 (1972), reh. den. 406 U.S. 911. Enlarging on Greene, this Court set forth specific constituents of due process which must be present when government adjudicates important, "personal" rights, Goldberg v. Kelly, 397 U.S. 254, 90 S.Ct. 1011, 1017, 1020-1022 (1970). Most apropos, are the observations in Willner v. Committee on Character and Fitness, 373 U.S. 96, 83 S. Ct. 1175 (1963), which hold "admission to the bar of a state" to be a "right," 373 U.S. at 102, 83 S.Ct. at 1179; and, this Court emphasized the need for confrontation and cross-examination in (contested)

Bar admission matters, 373 U.S. at 103-104, 83 S.Ct. at 1180:

> We have emphasized in recent years that procedural due process often requires confrontation and cross-examination of those whose word deprives a person of his livelihood. See Greene v. McElroy..and cases cited. That view has been taken by several state courts when it comes to procedural due process and the admission to practice law..(citing, inter alia, Application of Burke, 87 Ariz. 336, 351 P.2d 169)..We think the need for confrontation is a necessary conclusion from the requirements of procedural due process in a situation such as this..;

and continuing, 373 U.S. at 105, 83 S.Ct. at 1181:

> 'But a 'full hearing'--a fair and open hearing--requires more than that. * * * Those who are brought into contest with* * * Government in a quasi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government proposes and to be heard upon its proposals before it issues its final command.' Morgan v. United States, 304 U.S. 1, 18-19, 58 S.Ct. 773, 776, 82 L.Ed. 1129.
>
> Petitioner has no opportunity to ascertain and contest the bases of the Committee's reports to the Appellate Division, and the Appellate Division

> gave him no separate hearing. Yet, '[t]the requirements of fairness are not exhausted in the taking or consideration of evidence, but extend to the concluding parts of the procedure as well as to the beginning and intermediate steps.'...

In sum, the thrust of this Court's decisions is that the right to admission to a Bar and the right to pursue a profession flow from the personal rights to due process and equal protection under the Fifth and Fourteenth Amendments; and, the determination of those rights by government demands no less than a full and fair hearing with opportunity for confrontation and cross-examination preceded by adequate notice of "..what the Government proposes..," Willner, 373 U.S. at 105, 83 S.Ct. at 1181.

Despite the clear enunciation of the relevant law by this Court, Respondent, while acknowledging Ronwin's "..demands [for] an evidentiary hearing..," Appendix, p. 34 , asserts, "..We believe, however, that an evidentiary hearing is unnecessary and

inappropriate..," Appendix, p. 34 . Respondent verifies Ronwin's claim, made hereinabove, p. 7, by proclaiming: "..we may take judicial notice of such adjudicative facts as are 'capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned,'" Appendix, p. 11 . As claimed by Ronwin, p. 7, Respondent admits: "..we stated that our review of the facts would extend to matters established on the records of our files and the record of the files of the U.S. District Court for the District of Arizona in certain, specified cases," Appendix, p. 11.

What Respondent actually did was to take selected, untried and untested allegations from Ronwin's pleadings and briefs which displeased Respondent; and, acting as though Respondent's displeasure, without more, constituted an accurate determination of the truth, falsity and intent of said

allegations, Respondent justified its holding that Ronwin was not "mentally able." That method is exemplified by the text in Respondent's decision, Appendix, p. 21-22:

> From examination of the pleadings and affidavits prepared, signed and filed by Ronwin in our files and in the various federal court actions, it is apparent that applicant's personality disorder affects his conduct. With neither care nor caution, and restrained only by the outer limits of his intense anger, Ronwin has filled his pleadings with allegations of serious misconduct against the willing and unwilling participants in the proceedings which have led him to his present plight. These are not allegations of legal error, but, rather, accusations of knowing misconduct, plus misfeasance in office.

Following the above quotation, Respondent sets out various allegations attributed to Ronwin as though each and every allegation is false, Appendix, pp.22-26. Although, none of the allegations have ever been tested or tried before the juries demanded in the U.S. District Court cases. Based on that "trial by judicial notice," Respondent exclaims, Appendix, p. 26 :

> The examples cited suffice to establish that Ronwin's reaction to adversity manifests itself in behavior which is grossly improper for a lawyer and which cannot be tolerated..

What is "grossly improper" is Respondent's judicial technique which can be illustrated by just one blatant example. Respondent focuses on an allegation, saying, Appendix, p. 23 :

> In von Ammon I, we are told that a different federal judge knowingly tolerated illegal activity by attorneys..

In the Appendix, p. 60-63 , Ronwin has set forth the facts leading to the allegation referred to in the preceding quotation. As an absolute fact, two Arizona attorneys (one of whom "served" as Ronwin's attorney in the Special Committee hearing in 1975 referred to in Respondent's decision, Appendix, p. 3) lied to and attempted to deceive the United States District Court. The Court reporter's affidavit uncovered their lie and deceit and in their respond-

ing brief the two attorneys effectively admitted their deceitful action which is an illegal act in Arizona, Ariz. Rev. Stat., §32-265(1). The matter was brought to the federal judge's attention--he took no action against the two attorneys. Thereby, the federal judge "knowingly tolerated illegal activity by attorneys." Ronwin told and is telling the absolute truth in making the allegation attributed to him; yet, that becomes, without a hearing, a basis for labelling Ronwin as not "mentally able" to practice law!

Most probative hereto, is Respondent's startling admission, Appendix, p. 34:

> Ronwin demands an evidentiary hearing at which he would present evidence in an attempt to establish his grounds to believe in the truth of each of the many allegations and charges which he has made against judges, lawyers, clerks, committee members, etc. If the truth or his belief in the truth of these allegations were of importance to this decision, due process would entitle Ronwin to such a hearing...

Obviously, even if Ronwin's allegations are absolutely true, as shown by the example on pp. 14-15, supra, Respondent is determined to find Ronwin to be mentally unable and to deny him the right to practice law in Arizona, in utter disdain of fundamental, constitutional principles by use of "trial by judicial notice" which is a "trial" that guarantees--from Respondent's own statement quoted above, that the truth shall not prevail!

Respondent persists in its disregard of constitutional requirements with respect to Ronwin's applications for admission to the State Bar of Arizona. Thus, while Respondent admits Ronwin's claim that "between Febuary 1977 and February 1980" Ronwin's applications were denied, Appendix, p. 5-6 , Respondent fails to admit that there were five such applications, (carrying Respondent's case nos. SB 52-3 to SB

52-7, inclusive) and that each denial was was without adequate notice of "what the Government proposes," Willner, supra, and without a full hearing or, in fact, any hearing.

2. Can an applicant for Bar admission be declared mentally unable to practice law contrary to medical findings and on the basis of (i) untried and untested allegations made in pleadings and briefs and (ii) on the basis of a "non-medically recognized mental condition?"

In Application of Ronwin, 113 Ariz. 357, 555 P.2d 315, 317 (1976), cert. den. 430 U.S. 907, Respondent discovered a novel disease, diability or condition; i.e., the "non-medically recognized mental condition." Such a condition cannot be allowed to determine a Bar applicant's mental ability. The "standard" is irrational in that there are no known diagnoses for the alleged condition; no known cures; no known class

of practitioners versed in the recognition, treatment and care of the alleged condition. Any layman in a position of authority can simply level the charge that an individual has a "non-medically recognized mental condition," and use that as a pretext to deny basic civil rights. Respondent grudgingly admits that the medical evidence holds Ronwin to be mentally able; thus, Respondent notes, Appendix, p.14.

> On the former issue, we must defer to the doctors and accept their findings that Ronwin is 'capable.'

(The number of doctors so holding since 1975 is now seven (7) as against one (1) perjured, alleged "expert.") However, the subsequent sentence in Respondent's decision, Appendix, p.14-15, reveals that, regardless of the medical evidence, Respondent adheres to the irrational, "non-medically recognized mental condition."

Respondent's labelling of Ronwin as

"mentally unable" based on the use of untried and untested allegations in cases never placed within its jurisdiction for adjudication, as related above, is also irrational. As demonstrated, supra, pp. 14-16, even when Ronwin's allegations are absolutely true, Respondent takes them as false, asserts it will not hear the matter and denies Ronwin his right to pursue his profession in Arizona, while at the same time labelling Ronwin not "mentally able."

Respondent's standards and methods for determining mental ability of applicants for Bar admission are irrational and, as bad, a thinly veiled attack on Ronwin's First Amendment right to vocalize his exposure of misdeeds by some parties connected with the judicial establishment in the State and District of Arizona.

CONCLUSION

Respondent's definition of mental ability, and techniques and methods for determining same are both irrational and dangerous assaults on First, Fifth and Fourteenth Amendment rights. If left unreversed, Respondent's procedures will find emulation in other States, though said procedures constitute an arrogant defiance of this Court's lucid decisions prohibiting Respondent's activities complained of herein.

For the foregoing reasons, the Writ of Certiorari should be granted.

Respectfully submitted

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DATED: September 15, 1983

(APPENDICIES FOLLOW)

APPENDICES

IN THE SUPREME COURT
OF THE STATE OF ARIZONA

En Banc

Filed: July 6, 1983

In the Matter of	)	
	)	Supreme Court
EDWARD RONWIN	)	Nos. SB-52-8
	)	SB-52-9

APPLICATION FOR ADMISSION
TO STATE BAR OF ARIZONA

DENIED

Edward Ronwin	Urbandale
In Propria Persona	Iowa

FELDMAN, Justice

This application for admission to the Arizona Bar has a long, unhappy and complex history.

HISTORY OF PROCEEDINGS

Edward Ronwin (Ronwin) graduated from the College of Law at Arizona State University in January of 1974. He took both the Arizona and Iowa Bar examinations during that year. He passed in Iowa, but

failed the Arizona examination. He was admitted to practice by the Iowa Supreme Court in June 1974 and is still a member in good standing of that bar.

Ronwin petitioned the Committee on Examinations and Admissions for review of the grading of his examination papers. That petition was denied, as was a similar petition subsequently filed in this court. Certiorari was then denied by the United States Supreme Court. Ronwin v. Committee on Examinations and Admissions, 419 U.S. 967, 95 S.Ct. 231, 42 L.Ed.2d 183 (1974). Ronwin petitioned to retake the bar examination at the July 1974 sitting. Permission was denied because the Committee on Examinations and Admissions refused to certify that he was "mentally and physically able to engage in active and continuous practice of law" as required by Rule 28(c)(IV), Arizona Rules of the Supreme

Court, 17A A.R.S.[1] We then appointed a special committee to hold a formal evidentiary hearing regarding the allegations of mental unfitness. This hearing was conducted pursuant to Rule 28(c)(XII)(C). The special committee found that Ronwin suffered from a "personality disorder" which resulted in (a) unreasonable suspicions that persons who dealt with him and did not meet his desires were activated by bad motives and that he was, therefore, the "object of unfair persecution." As a result, the committee concluded that if admitted, Ronwin would "act upon such imagined wrongs" by: (b) making "irresponsible and highly derogatory untrue public accusations and charges against persons in responsible positions which he knows or reasonably

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[1] The rules of the supreme court will be referred to as Rule_____.

(Petitioner's comment on the court's footnote 1: The underlined space is blank in the original decision.)

should know are without any factual basis or support..."; and (c) bringing and pursuing "with great persistence groundless claims in court proceedings and otherwise", thereby subjecting others to needless expense and concern. The committee decided that in representing others Ronwin would subject his clients, adversaries, opposing counsel and the court to "groundless charges of misconduct and impropriety" if his views regarding the law were opposed and not sustained by the court. On these bases, the committee found Ronwin was not mentally fit for the practice of law and declined to recommend him for admission. Ronwin petitioned this court for review of that finding, seeking leave in the interim to take the Arizona bar examination. Permission to take the bar examination was denied.

After review of the record, we concluded that the committee had properly assessed

Ronwin's personality problems, and that those problems would affect his ability to "reasonably deal with the type of social interaction" required in the practice of law. Application of Ronwin (Ronwin I), 113 Ariz. 357, 359, 555 P.2d 315, 317 (1976), cert. denied, 430 U.S. 907, 97 S.Ct. 1178, 51 L.Ed.2d 583 (1977). We concluded that finding (b) of the committee was sustained, and ordered that Ronwin not be admitted. We did not agree with the committee on ground (c) since we believed that Ronwin had a right to resort to the legal system to "express his grievances where, as in this case, there [was] credible evidence that the actions [filed by Ronwin] were brought with good faith belief in their merit." Id.at 360, 555 P.2d at 318 (footnote omitted).

Ronwin applied for permission to take the bar examination in Arizona at various times between February 1977 and February

1980, and each application was denied. The current applications for admission, SB-52-8 and SB-52-9[2] were supplemented by Ronwin several times at the request of this court. In October of 1981, we ordered that Ronwin be permitted to take the February 1982 bar examination, and reserved the issue of his fitness. Ronwin failed a portion of the February 1982 bar examination, but passed the July 1982 examination.

For reasons which will become apparent later in this opinion, the current applications have not been referred again to the committee. The ultimate responsibility for admitting candidates for the practice of law is vested in this court. Ron-

[2] SB-52-8 is the file containing matters relevant to Ronwin's application for permission to take the 1982 bar examination. As indicated, that permission was granted and Ronwin eventually passed the examination. SB-52-9 is the file relevant to Ronwin's present application for admission in the event that he did pass the examination.

win I, 113 Ariz. at 358, 555 P.2d at 316; Application of Levine, 97 Ariz. 88, 91, 397 P.2d 205, 207 (1964); Rule 28(c)(XII)(F)(2). We have determined to discharge that responsibility directly in this case.

We permitted Ronwin to support his applications by a written report from a psychiatrist who had examined him in Iowa. Ronwin also agreed to submit to examination by a psychiatrist and a clinical psychologist appointed by this court. By subsequent order, we referred the question of fitness to the Honorable Paul LaPrade, a Judge of the Superior Court of the State of Arizona. Pursuant to the order of reference, Judge LaPrade was to act as a master, conduct a hearing and report to this court. Subsequently, Ronwin and counsel appointed by this court to aid the master in making a just determination stipulated to submit the issues to the master on the written record in SB-52-8

and SB-52-9, without an evidentiary hearing. The master's report was to be based upon the contents of the record in the two petitions, together with the written reports of the psychiatrists and psychologist.

Ronwin then moved for permission to withdraw the stipulation, contending that it limited the master to consideration of those matters in the files of SB-52-8 and SB-52-9 and had contemplated a decision within one week to ten days. Ronwin's motion for permission to withdraw from the stipulation was denied. The master's report was filed in this court on November 4, 1982. The master concluded that Ronwin was not mentally fit for the practice of law. In reaching this conclusion, however, the master went beyond the limits of the stipulation and considered certain pleadings and affidavits signed and filed by Ronwin in various cases in which he was

plaintiff and had appeared pro se.[3] On Ronwin's objection, we struck the extraneous matters from the master's report. Upon further consideration, however, we have concluded that because the master's report was based upon many evidentiary items which were not within the parameters of the submission by the parties, it would be better for us not to rely upon that report. Since we have the ultimate responsibility for determination of fact and law, Levine, 97 Ariz. at 92, 397 P.2d at 207, we have decided to make an independent review of the record without again referring the matter to a master. Rule 28(c)(XII)(F) contemplates such a procedure.

As we stated in Ronwin I, supra, the

[3] The caption and number of each of these cases were referred to in the records of SB-52-8 and SB-52-9, but Ronwin complained that his stipulation to waive an evidentiary hearing was based upon the agreement that the matter would be submitted "solely on the basis of the written [medical] reports...and on the contents of the record in SB-52-8 and SB-52-9 as it currently exists."

practice of law is not a privilege; it is a right. While similar to the right to engage in other occupations, it is subject to regulation to ensure that those who engage in the practice of law have the necessary mental, physical and moral qualities required. Id. at 358, 555 P.2d at 316; see also Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232, 239, 77 S.Ct. 752, 756, 1 L.Ed.2d 796 (1957). Thus, the applicant for admission "has the burden of establishing...that he is 'mentally ...able to engage in active and continuous practice of law.'" Ronwin I, supra. Each case must be judged on its own merits "and an ad hoc determination in each instance must be made by the court." Application of Klahr, 102 Ariz. 529, 531, 433 P.2d 977, 979 (1967).

We are therefore charged with the responsibility of making an independent review to determine whether the applicant

is mentally fit for the practice of law. Unlike the master, our review is not curtailed by stipulation and may be as broad as allowed by law. Among other things, we may take judicial notice of such adjudicative facts as are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Ariz. R. Evid. 201(b).

In this connection, we gave Ronwin notice by order dated April 27, 1983 that the master's report would be stricken and that we would make an independent review of fact and law. We stated that our review of the facts would extend to matters established on the record of our files and the record of the files of the United States District Court for the District of Arizona in certain, specified cases. We allowed applicant to file a memorandum directed to this procedure and to the issues raised by the record referred to in our

order of April 27. We also allowed applicant to submit by affidavit or offer of proof any factual matter which he wished us to consider. Applicant did file a document entitled "Motion Concerning Order of April 27, 1983" in response to our order.

INDEPENDENT REVIEW

The Issue

In conducting our review, we find the expert medical opinions instructive. The psychiatrist from Iowa, Dr. Taylor, reported that he "found no indication that [Ronwin] now suffers...from any type of mental illness, mental disorder or mental defect." Acknowledging that applicant possessed personality traits "which might be termed unpleasant or abrasive by those adopting positions in opposition to those held by Ronwin," Dr. Taylor stated it was "possible" that such traits would not impair Ronwin's ability to competently prac-

tice law.

Both the psychiatrist and psychologist appointed by this court to make an independent examination found that Ronwin suffers from a "compulsive personality disorder" defined on Axis II of the DSM III of the American Psychiatric Association. The psychologist's opinion was that this disorder would "not necessarily impair [Ronwin's] capability to conform to the rules and ethical considerations of the American Bar Association." (Emphasis supplied.)* The psychiatrist stated his opinion that Ronwin was "capable of conforming to the rules and ethics of the code of professional conduct." (Emphasis supplied.)* Both doctors found that the compulsive personality disorder manifested itself in overzealousness in the pursuit of what

*(Petitioner's footnote). The emphasis and parenthetical phrases are found in the original decision.

Ronwin considered to be justice and was marked by paranoid attitudes, lack of flexibility, hypersensitivity, inability to compromise, perfectionism, obsessive preoccupation with details, suspiciousness and hostility.

We are aware that such traits are not exclusive to Ronwin and are found in the emotional makeup of many human beings. The question is whether these behavioral traits and the emotional problems which cause them are sufficient in magnitude and duration that they may be expected to affect the applicant's conduct as a lawyer and, to a significant degree, cause it to fall below acceptable standards. The issue thus is not merely capacity and capability, but also behavior. On the former issue, we must defer to the doctors and accept their findings that Ronwin is "capable." On the latter, we must examine the record to determine if it establishes that Ron-

win's personality disorder impairs his conduct to such a degree that he is not mentally able to engage in the practice of law.

The Record

Following the decision in Ronwin I, Ronwin commenced a series of legal actions against various members of the Arizona State Bar.[4] The basis of these actions was Ronwin's belief that there was a conspiracy to prevent his admission to the Arizona Bar. In Ronwin v. Daughton[5], Ron-

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[4] Under Ariz. R. Evid. 201(b), we take notice of the contents and disposition of the file in each of the cases referenced in this opinion. We take notice that the cases exist, that allegations are made, etc. We cannot and do not take notice of the truth or falsity of specific allegations except as established by final judgment.

[5] Information pertaining to all actions filed by Ronwin and mentioned in this opinion will be found in Appendix A to this opinion.

win brought a civil rights action (see 42 U.S.C. § 1981 et seq.) against all members of the special committee appointed by this court to hold the evidentiary hearing regarding his mental ability to practice law. In addition, he included as defendants those attorneys who had represented the state bar in the proceedings before the committee, his own attorney, and several of the witnesses who testified, including the dean and assistant dean of the law school, both of whom had testified in his behalf. In Ronwin v. Segal, he brought a civil rights action against members of this court's Committee on Character and Fitness, formerly a part of the Committee on Examinations and Admissions. In Ronwin v. State Bar of Arizona, he brought an antitrust action against members of the Supreme Court Committee on Examinations and Admissions. In Ronwin v. Gage, applicant filed a third civil rights action

against the members of an Arizona State Bar Administrative Committee, joining the members of this court. In Ronwin v. von Ammon (von Ammon I), applicant brought a civil rights action against the attorneys who had represented the Arizona State Bar in several of the previous actions, joining in the process his former attorney, the members of this court and two judges of the United States District Court for the District of Arizona. In Ronwin v. von Ammon, (von Ammon II), applicant brought a fifth civil rights action against many of the same defendants previously sued. In addition, Ronwin named a third federal judge, the Clerk of the United States District Court and an Assistant United States Attorney as defendants. The members of this court were also joined as defendants. In Ronwin v. Shapiro, Ronwin commenced an action against a law student at the University of Arizona who had written a casenote

on Ronwin I. In this action, one of the editors of the law review and the members of the Arizona Board of Regents were also named as defendants. This list does not exhaust the actions Ronwin has filed in response to the denial of his application for admission to the Arizona Bar.

We assume, arguendo, that much of this may have been precipitated by the religious harassment to which Ronwin alleges he was subjected during the years 1972-1974 at the hands of some students in the College of Law at Arizona State University. See Ronwin I, 113 Ariz. at 359, 555 P.2d at 317. Outrage over this certainly would be an appropriate reaction; given Ronwin's personality traits as described in the psychological reports, it is easy to understand why Ronwin's reaction exceeded outrage. Lawyers certainly have the right to become outraged and to

resort to litigation when they have a good-faith belief that they have been wronged, but they do not have the right to file actions or commence proceedings which are vexatious or harassing in nature. See In re Martin-Trigona, 55 Ill.2d 301, 308-10, 302 N.E.2d 68, 72-73 (1973); see also Matter of Wetzel, 118 Ariz. 33, 35, 574 P.2d 826, 828 (1979). Nor do lawyers have the right to behave inappropriately while acting as lawyers, even if they are representing themselves. See In re Martin-Trigona, supra; In re Mezzacca, 67 N.J. 387, 389, 340 A.2d 658, 659 (1975).

These principles are not limited to case law. Arizona has adopted, with some modifications, the Model Code of Professional Responsibility. Rule 29(a). DR 7-106(C)(6) states that a lawyer shall not "[e]ngage in undignified or discourteous conduct which is degrading to a tribunal." DR 8-102(B) states that a "lawyer shall

not knowingly make false accusations against a judge or other adjudicatory officer." Ariz. R. Civ. P. 11 also forbids inserting "scandalous or indecent" matters in pleadings and requires a belief in the existence of good grounds to support all allegations, with provision for disciplinary action where appropriate. Implicit in these rules is the requirement that lawyers exercise restraint in language and deed while acting as lawyers, particularly in relation to litigation. See Model Code of Professional Responsibility EC 7-36, 7-37, 7-38 (1980). The rules are explicit on the question of litigation. A lawyer "shall not" file actions, assert positions or take other action on behalf of clients when he or she knows "or when it is obvious that such action would serve merely to harass or maliciously injure another." DR 7-102(A)(1)(emphasis supplied).*

Nor should they file claims or actions unless the case is supported by law or tenable argument. Id. (A)(2). What lawyers cannot do for clients, they cannot do for themselves. Matter of Wetzel, supra. Violation of the foregoing requirements is grounds for denial of admission. In re Martin-Trigona, supra; Application of Feingold, 296 A.2d 492, 500 (Me. 1972).

From examination of the pleadings and affidavits prepared, signed and filed by Ronwin in our files and in the various federal court actions, it is apparent that applicant's personality disorder affects his conduct. With neither care nor caution, and restrained only by the outer limits of his intense anger, Ronwin has filled his pleadings with allegations of serious misconduct against the willing and unwilling participants in the proceedings which have led him to his present plight. These are not allegations

of legal error, but, rather, accusations of knowing misconduct, plus misfeasance in office. In von Ammon II, Ronwin accuses the dean and assistant dean of the law school not only of tolerating anti-Semitic behavior, but also of knowingly participating in an "engineered fraud" to keep Ronwin out of the bar by sending Ronwin to a lawyer who would participate in "rigging" the hearing before the Special Committee. Ronwin alleges that a motion for security for costs filed by the defendants in one of the district court actions was granted because the judge was manipulated by the defendants' lawyers who were friends of the judge; for that reason, he alleges, the district court judge "knowingly tolerated criminal behavior" by those lawyers. He alleges further that this supposedly occurred because the Clerk of the United States District Court had joined the conspiracy against Ronwin and had intention-

ally altered procedures in the Clerk's office so that the case could be assigned to a district court judge who was friendly toward the lawyers representing the defendants. Ronwin alleges that an Assistant United States Attorney for the District of Arizona disregarded his duty by defending the federal judge instead of prosecuting him. In von Ammon I, we are told that a different federal judge knowingly tolerated illegal activity by attorneys; this allegedly occurred as a result of unlawful conduct by members of the Arizona State Bar who had influence over both the state and federal judiciary and engaged in a criminal and fraudulent process of manipulating court decisions. In Ronwin v. Gage, state bar counsel, committee chairmen and members of state bar committees are all accused of participating in an engineered sham and fraud. Lawyers in the various proceedings are accused of having committed perjury,

of suborning witnesses, making fraudulent allegations and engaging in a conspiracy against Ronwin. Ronwin's counsel in a previous case is accused of having joined the conspiracy to violate Ronwin's rights. A list of these accusations could go on ad infinitum. The true flavor, however, can only come from Ronwin's words; examples are quoted in the Appendix B.

Ronwin's pleadings in the United States District Court touch upon many if not most District Court Judges with whom he came in contact, including a visiting judge from the Southern District of California. The Clerk, Assistant Clerk and members of the Office of the United States Attorney are accused of involvement in the conspiracy. An Assistant United States Attorney was sued on the allegation of having joined the conspiracy by refusing Ronwin's request to prosecute a district judge who had allegedly acted illegally by knowingly

tolerating the acts of applicant's attorney.

The record in our own court is similar. The decision in Ronwin I is alleged to have been "based on an engineered fraud and collusion by several members of the bar." In commenting on footnote 1 of Ronwin I, applicant states that it sets "an anti-semitic standard" which is that "if an applicant for admittance...becomes hypersensitive and aggressive against anti-semiticism [sic] that applicant becomes disqualified..."[6] In a complete manifestation of lack of perspective, Ronwin compares his situation to that of the European Jews whose fate in the holocaust was sealed by the world's diplomats in 1938 at the conference at Evian-les-Bains. The dean of the law school at Arizona

[6] The footnote in question actually states that applicant's hypersensitivity and aggressiveness (as mentioned in the psychological reports) aggravated the normal repugnance "[which] an individual would feel as the brunt of such remarks." 113 Ariz. at 359 n.1, 555 P.2d at 317 n.1.

State University is described as "that incompetent liar and fraud." The foregoing examples are taken from the first five pages of Ronwin's Motion to Rehear in Ronwin I; this was filed six years after the decision became final and is part of the file in SB 52-9. In other pleadings in the file, Ronwin accuses the clerk of this court of intentional and knowing destruction of part of the record in this case.

The examples cited suffice to establish that Ronwin's reaction to adversity manifests itself in behavior which is grossly improper for a lawyer and which cannot be tolerated. This conclusion does not evince a lack of toleration for Ronwin; it simply acknowledges that we can make no special rule for Ronwin. What is permitted Ronwin is necessarily permitted all other members of our bar. Habitual filing of actions against adjudicatory officers, witnesses and opposing counsel is both vexatious and

harassing. Worse, it is a tactic calculated to intimidate. It cannot be tolerated unless we are willing to surrender reason to those whose conduct is uninhibited by reality and civility. Adjudication of facts and resolution of legal disputes cannot be properly accomplished in the absence of restraint and civilized behavior by lawyers. Care with words and respect for courts and one's adversaries is a necessity, not because lawyers and judges are without fault, but because trial by combat long ago proved unsatisfactory.

We agree with the reasoning of the Maine Supreme Court in Application of Feingold, supra:

> The efficient and orderly administration of justice cannot be successfully carried on if we allow attorneys to engage in unwarranted attacks on the court, opposing counsel or the jury. Such tactics seriously lower the public respect for both the Court and the Bar. It is the duty of an attorney to present his case in an orderly fashion and not

> to engage in conduct repugnant to the just determination of the issues in controversy. Turbulent, intemperate or irresponsible behavior is a proper basis for the denial of admission to the bar.

296 A.2d at 500, citing In re Latimer, 11 Ill.2d 327, 143 N.E.2d 20 (1957); Ex Parte Keeley, 189 P. 885 (Or. 1920). See also State v. Turner, 217 Kan.574, 538 P.2d 966 (1975); In re McAlevy, 69 N.J. 349, 354 A.2d 289 (1976).

THE FIRST AMENDMENT

When questioned by members of this court in oral argument, Ronwin demonstrated a sincere belief in his right to behave in the manner described above. He contends that he has a first amendment right to speak and write as he wishes and to say anything which he believes to be true. This may be true, but we believe that any such absolute first amendment right must be exercised somewhere other than the courtroom.

We do not refuse admission because of an applicant's beliefs or an applicant's exercise of the right of free speech. We long ago crossed that bridge in Application of Levine, supra. In Levine, the committee recommended that admission be denied because it believed that the applicant did "not possess the sense of public responsibility which a lawyer should have" as evidenced by the fact that the applicant had publicly criticized the Federal Bureau of Investigation and its Director, J. Edgar Hoover. Id. at 90, 397 P.2d at 208. We ordered that the applicant be admitted. Writing for a unanimous court, Justice Struckmeyer quoted the following language from the United States Supreme Court's opinion in New York Times Company v. Sullivan, 376 U.S. 254, 270, 84 S.Ct. 710, 721, 11 L.Ed.2d 686 (1964):

> [W]e consider this case against the background of profound national commitment to the principle that debate

> on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.

Id. at 97, 397 P.2d at 211. Justice Struckmeyer concluded:

> [N]o rule or principle of law compels the critic of official conduct in his utterances, public or private, to guarantee absolutely the truth of all his factual expressions, certainly not on the chance that he will be barred from his profession or vocation in case the utterances are later found to be erroneous.

Id.

There is no inconsistency between our holding in Levine and the views expressed today. Levine's alleged transgressions, if criticism of a federal agency and its director can be considered as such, involved speaking his mind and writing his thoughts in a non-judicial forum. Public entities and their officers are subject to criticism, pleasant or unpleasant, whether based on fact or belief. In judicial proceedings,

however, lawyers are required to show both accuracy and restraint; statements should not be made absent a basis in fact and law. We acknowledge, arguendo, that applicant believes he is the victim of a conspiracy which encompasses this court, most of the federal bench, the organized bar, the bar committees and the lawyers who have participated in the various cases. This is the recurring theme in the civil rights actions which Ronwin filed. We think, however, that Ronwin's sincere bebelief in this supposed, wide-ranging conspiracy against him is not all that is required for the practice of law. Belief unrelated to reason is a hallmark of fanaticism, zealotry or paranoia rather than reasoned advocacy. The practice of law requires the ability to discriminate between fact and faith, evidence and imagination, reality and hallucination. Further, epithets, verbal abuse, unfounded accusations and

the like have no place in legal proceedings. While occasional lapses in decorum are usually overlooked, Ronwin's transgressions exceed occasional anger or loss of control. They form a pattern and a way of life which, on this record, appears to be applicant's normal reaction to personal or professional adversity. See Casenote, Admission to the Bar: Mental Fitness Requirements in Arizona, 19 Ariz. L. Rev. 672, 680 (1977).

Thus, we agree with the reasoning of the Illinois Supreme Court in In re Martin-Trigona, supra:

> Petitioner contends that [his statements are] protected by the first amendment's freedom of speech provision...Thus, while he concedes these communications are unusual and forceful, he maintains that no action may be taken against him. The question presented is not the scope of petitioner's rights under the first amendment but whether his propensity to unreasonably react against anyone whom he believes opposes him reveals his lack of responsibility, which renders him unfit to practice law.

Id. at 308, 302 N.E.2d at 72.

The profession's insistence that counsel show restraint, self-discipline and a sense of reality in dealing with courts, other counsel, witnesses and adversaries is more than insistence on good manners. It is based on the knowledge that civilized, rational behavior is essential if the judicial system is to perform its function. Absent this, any judicial proceeding in [sic] likely to degenerate into verbal free-for-all and some, no doubt, into physical combat. Thus, Ronwin's behavior does not present the question of free speech, but of habitual unreasonable reaction to adverse rulings. It is conduct of a type not to be permitted of a lawyer when acting as a lawyer. What cannot be permitted in lawyers, cannot be tolerated in those applying for admission as lawyers. Id. at 310, 302 N.E.2d at 73.

EVIDENTIARY HEARING

Ronwin demands an evidentiary hearing at which he would present evidence in an attempt to establish his grounds to believe in the truth of each of the many allegations and charges which he has made against judges, lawyers, clerks, committee members, etc. If the truth or his belief in the truth of each of these allegations were of importance to this decision, due process would entitle Ronwin to such a hearing. We believe, however, that an evidentiary hearing is unnecessary and inappropriate for the following reasons:

First, in his pleading entitled "Motion Concerning Order of April 27, 1983," Ronwin requests that we review previous medical reports filed in SB-52-2 and 52-3, as well as the testimony given by Dr. Taylor before the Iowa Supreme Court in 1977 and the reports of Drs. Barnes, Gray and Tuchler. All of this material is more than

six years old and, for that reason, is not particularly helpful with respect to Ronwin's present situation. In any event, we do not believe that any of this material conflicts[7] with the more recent information

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[7] For instance, in his report of December 23,1974, Dr. Gray concluded that:

> There is no evidence that Dr. Ronwin is suffering from any organic mental illness, functional psychosis, or severe psychoneuroses. There is some evidence to support a diagnosis of a personality disorder but such categories are blurred at best and are variously diagnosed by independent examiners.
>
> While Dr. Ronwin possesses traits that may engender negative reactions in some people who deal with him they are not of sufficient degree to warrant excluding him from practicing his profession on psychiatric grounds.

(Emphasis supplied).

> Dr. Barnes, on November 19, 1974, described applicant's personality in great detail, preferring "to avoid the use of diagnostic terms." Without the use of labels, Dr. Barnes described Ronwin's personality at length. His assessment is set forth in Appendix C. While we should not rely on that assessment, and do not because of its age, Ronwin has asked us to consider it, and it does, indeed, indicate that the problems which are with him today are of long standing duration.

from Dr. Taylor and from the psychiatrist and psychologist who examined Ronwin in these proceedings.

Second, we will not deny an applicant admission merely because he or she has filed legal actions accusing this court and the bar of violations of the applicant's civil rights or of the law. We will deny admission where, years after Ronwin I became final, applicant has refused to accept the decision and has continued to file vexatious actions, almost none of which was based on sound legal theory and most of which indicate that applicant's emotions have overcome his sense of proportion and his knowledge of the law. We reach this conclusion about the actions filed by Ronwin from the disposition of each case as shown in the files of the Clerk of the United States District Court for the District of Arizona. (See

Appendix A, indicating disposition of each of the actions.)

Third, even if Ronwin had grounds to sue some members of the bar and bench for misconduct, the accusations can and should be made without vilification and use of provocative language. It is, for example, required and possible to plead a cause of action for violation of civil rights without making the allegation that the defendant is an "incompetent liar and fraud." See In re Martin-Trigona, supra. It is possible to allege conspiracy to violate civil rights or antitrust law without applying similar epithets.

Fourth, we do not believe that a lawyer has a right to use the legal process for the purpose of harassing those who act contrary to his wishes or offend him by failing to agree with his viewpoint. We find, for instance, the action which Ronwin brought against the author of the

casenote in the Arizona Law Review, the editor and the board of regents to be harassing in nature and wholly without legal or procedural merit. This finding is based upon our reading of Ronwin I, the casenote and the decision in Ronwin v. Shapiro, 657 F.2d 1071, 1075-76 (9th Cir. 1981).

Fifth, we find Ronwin's use of language with regard to the federal bench and the Clerk's office wholly inappropriate and demonstrative of a lack of respect for the judiciary.

Sixth, in our order of April 27, 1983, we allowed Ronwin to submit by affidavit or offer or proof any factual matter which he deemed relevant. Except for the additional medical reports, which we have now considered, he refused to submit such information.

Finally, the right to an evidentiary hearing must fall once the essential na-

ture of the barrage of Ronwin's allegations is appreciated. Ronwin does not merely complain that a specific witness, lawyer, judge, clerk or officer acted improperly or illegally. The essence of his complaints, when viewed in their totality, is both implicitly and explicitly that judges, lawyers, court officers and others have engaged in a conspiracy to deprive him of his right to practice law. The essence of the factual question urged by Ronwin is not whether a particular judge or particular lawyer acted incorrectly--indeed much of this is foreclosed by the finality of Ronwin I--but, rather, that all these acts were part of a conspiracy against him. It is on this fundamental question that he demands a right to present evidence, and it is primarily on this fundamental question that we now deny him a factual hearing.

If applicant is entitled to an evidentiary hearing on the fundamental, ultimate proposition that bench and bar are involved in a conspiracy devoted to his destruction, it must be in a forum other than ours. We cannot, for instance, take evidence on our own integrity; we do not propose to hold a wide-ranging inquiry on the integrity and honesty of the Judges of the United States District Court for the District of Arizona, the attorneys in the United States Attorney's Office for the District of Arizona, the Clerk of this court, the Clerk of the United States District Court, their deputies, the Arizona Bar, the College of Law, etc., ad infinitum.

RECUSAL PROBLEMS

Yet another problem arises. One member of this court recused himself after oral argument because he felt too personally

involved in the case to participate in the decision. That leaves four members of this court. Each has been made a defendant by Ronwin in various actions.[8] If we are to recuse ourselves simply because we have been sued by the applicant, then who is left to decide this case? As the Ninth Circuit stated: "'[A] judge is not disqualified merely because a litigant sues or threatens to sue him.' Such an easy method for obtaining disqualification should not be encouraged or allowed." Ronwin v. State Bar of Arizona, 686 F.2d at 701, quoting United States v. Grismore, 564 F.2d 929, 933 (10th Cir. 1977); see also Smith v. Smith, 115 Ariz. 299, 303, 564 P.2d 1266, 1270 (App. 1977). We agree; the mere fact that a judge has been sued

[8]We note that the members of this court and the attorneys who have acted in its behalf have again been named defendants in an action filed by Ronwin in the United States District Court for the District of Arizona, No. Civ 83-1036 PHX-CLH, filed June 6, 1983.

by reason of his rulings in a case does not require recusal. Nor can the fact that all judges in the court have been sued require recusal. To honor such a technique would be to put the weapon of disqualification in the hands of the most unscrupulous.

CONCLUSION

Ronwin has not established that he is mentally fit to practice law. Manifestations of improper conduct include the filing of unwarranted legal actions against numerous individuals connected with Ronwin's unhappy experience in applying for admission to the Arizona Bar. While we indicated in Ronwin I that we hesitated to fault the applicant for bringing legal actions which he believed were well founded, we must conclude from the number of actions, from their disposition, from filings against persons so peripherally

involved (for example, the Assistant United States Attorney, the author of the casenote in the Arizona Law Review, the Arizona Board of Regents and Mr. von Ammon[9]) and from the language used, that applicant has acted and will continue to act in an irresponsible manner when he fails to gain his objectives. The refusal to accept the finality of Ronwin I, followed by the filing of unwarranted, vexatious,and harassing actions constitutes grounds for denial of admission. We conclude further that applicant's use of intemporate, provocatory language and epithets; his lack of control, restraint and civility; and his custom of vilifying those who oppose him are all im-

[9]Mr. von Ammon is, perhaps, not peripherally involved. He is a respected member of the Arizona Bar and therefore was asked by this court to serve as counsel for the State Bar, this court and its committees. The cases in which Mr. von Ammon agreed to serve are not pleasant litigation. We doubt, however, that he expected that as a result of serving this court and the bar he and members of his firm would be made defendants in multiple litigation.

proper conduct for an attorney and constitute grounds for denial of admission. We have previously remarked on such conduct in the following words:

> While the record does not clarify whether this incapacity [to act in a professional manner] results from respondent's ignorance of certain rules governing the conduct of attorneys in Arizona, or from his emotional inability or philosophical unwillingness to adjust his conduct accordingly, his conduct and attitude demonstrate that he is currently unfit to practice law.

Matter of Wetzel, 118 Ariz. at 36, 574 P. 2d at 829 (1978).

The record overwhelmingly establishes that Ronwin's personality traits result in behavior which demonstrates a lack of "qualities of responsibility, candor, fairness, self-restraint, objectivity and respect for the judicial system are necessary adjuncts to the orderly administration of justice." In re Martin-Trigona, 55 Ill.2d at 312, 302 N.E.2d at 741. After

review of these problems, we hold that applicant is not mentally able to engage in the practice of law and should not be admitted to the bar. Therefore, the application for admission is denied.

Applicant will be permitted to reapply when and if he can establish that he is able to control his conduct in such a manner that the bar and bench will have some assurance that his behavior will conform to that which is expected of lawyers in our system of justice.

STANLEY G. FELDMAN, Justice

CONCURRING:

WILLIAM A. HOLOHAN, Chief Justice

JACK D. H. HAYS, Justice

JAMES DUKE CAMERON, Justice

Note: Vice Chief Justice Frank X. Gordon, Jr., having recused himself, did not par-

ticipate in the determination of this matter.

APPENDIX A
(To Respondent's Decision)

Ronwin v. Daughton, No. CIV-76-872 PHX-WPC (D. Ariz.,filed November 26, 1976). Complaint dismissed March 4, 1977 as to all defendants, based on grounds of lack of subject matter jurisdiction, no federal question presented, res judicata and judicial immunity; aff'd No. 77-2318 (9th Cir. 1979).

Ronwin v. Segal,No. CIV-76-924 PHX-WPC/MLR (D. Ariz.,filed December 13, 1976). Complaint dismissed June 6, 1977; aff'd No. 77-2567 (9th Cir. 1980).

Ronwin v. State Bar of Arizona, No. CIV 78-193 PHX WPC/MLR (D. Ariz., filed March 13, 1978). Antitrust action dismised October 12, 1979; aff'd in part, rev'd in part and remanded, 686 F.2d 692 (9th Cir. 1982). Ninth Circuit held examination and admis-

sion practices do not fall within "state action" immunity to antitrust laws; cert. granted, 51 U.S.L.W. 3825 (U.S. May 16, 1983) (No. 82-1474).

Ronwin v. Gage, No. CIV-78-214 PHX-WPC/MLR (D. Ariz., filed March 20, 1978). Summary judgment granted defendants October 12, 1979 on numerous grounds, including failure to state a claim, judicial immunity, lack of jurisdiction, res judicata and collateral estoppel.**

Ronwin v. von Ammon (von Ammon I), No. CIV-79-175 PHX WEC/CAM (D. Ariz. filed March 6, 1979). Dismissed May 21, 1979 as to District Court judges on grounds of judicial immunity and consequent failure to state a claim; dismissed July 19, 1980 as to remaining defendants for failure to state a claim.

**(Petitioner's footnote): Since 1979, the federal judge involved, the Hon. Manuel L. Real of the Southern District of California, has still not ruled on a motion for new trial filed by Petitioner.

Ronwin v. von Ammon (von Ammon II), No. CIV-80-289 PHX-CAM (D. Ariz., filed April 18, 1980). Dismissed July 18, 1980 as to District Court Judges because action against them was "totally frivolous and vexatious," and as to numerous other defendants for failure to state a claim; dismissed January 28, 1981 as to Clerk of District Court and United States Attorney because action was "frivolous, vexatious and failed to state a claim," and as to Supreme Court Justices because there was no credible evidence that they participated in an illicit conspiracy and the court lacked subject matter jurisdiction. Attorney's fees were awarded to some of the defendants. von Ammon I and von Ammon II were consolidated on appeal and aff'd 688 F.2d 848 (9th Cir. 1982).

Ronwin v. Shapiro, No. CIV-79-84 TUC-MAR (D. Ariz., filed March 29, 1979). Dismissed defamation action January 25, 1980;

aff'd 657 F.2d 1071 (9th Cir. 1981). Ninth Circuit affirmed dismissal of action against the Arizona Board of Regents and dismissed action as to author and editor under the privilege for fair report of judicial proceedings.***

APPENDIX B
(To Respondent's Decision)

In a letter dated May 23, 1981, to the Chief Judge of the United States District Court for the District of Arizona, Ronwin commented on the proceedings in federal court in both von Ammon cases. A copy of that letter was sent to this court and is part of the file in SB-52-9. In commenting upon the rebuttal argument of counsel for the state bar to Ronwin's charges that a

***(Petitioner's footnote): Respondent fails to inform this Court that case numbers 76-924; 78-214;79-175 and 80-289 were filed by Petitioner pursuant to Respondent's denial without any hearing whatsoever, despite demand therefor, of Petitioner's separate applications for admission to the State Bar of Arizona made in 1976, 1977, 1978 and 1979.

witness had lied, Ronwin had the following comments for the Chief Judge:

> On p. 22,...of the item attached hereto [counsel for state bar] assures you and your court, sitting in the hearings on July 7/8, 1980, that:
>
> > "..The charges [that [the witness] lied under oath in his testimony before the Special Committee of the Arizona Supreme Court... and in his deposition in Civ. 78-214 PHX in this Court] are completely unjustified and totally unforgiveable.."
>
> From the material enclosed, it is beyond question that [counsel] knowingly lies. [Counsel] has done so on other occasions...
>
> That [counsel] lies in his advocacy on behalf of the State Bar of Arizona and on behalf of the Arizona Supreme Court members -- keepers of the ethical conscience of the Arizona legal community -- is scandalous. But that he deliberately lies in your Court in an official proceeding is outrageous in the extreme.
>
> **You had sufficient evidence before you to see the plain truth: [The witness] lies under oath; [counsel] was privy, indded, present at those episodes..and then [counsel] knowingly and wilfully lied in your Court about whether [the witness] lies in his testimony. Why did you tolerate**

[counsel's] lie? And, how does such lying merit an award of attorney's fees to [counsel], and his helper,..and the Defendants who he represents?

[Counsel] states, p. 22,...attached item:

> "..it would be cruel and inhuman punishment to require [the witness] to submit again to the kind of treatment that he has been previously treated to by Plaintiff in examination,"

which is another fraud by [counsel], who well knows that the "treatment" to which Plaintiff subjected [the witness] was to expose [the witness'] perjury and incompetence as to material herein proves; and, [counsel] well knows that the "cruel and inhuman punishment" is to subject a man of my learning and demonstrated ability in the practice of law to the anti-semitic outrage and abuse to which I have been subjected by the criminal scoundrels, liars and frauds like [counsel and several attorneys] and their helpers...

[Counsel's] lie about [the witness] is only one of many he has proffered to your Court whether presided over by you or by other judges. Why, as with [a District Court Judge's]refusal to take action against [an attorney] and [an attorney] for their outrage, is the Federal District Court in Arizona being used to protect these criminals?

I would like to have your response to my questions. I believe that you were not appointed to protect the hoodlums who have taken control of the Arizona State Bar; and, if you cannot apply the law without regard to the position or alleged reputation of those who come before you then you ought to resign.

APPENDIX C
(To Respondent's Decision)

PSYCHIATRIC EVALUATION BY ROBERT H. BARNES, M.D., NOVEMBER 19, 1974

My descriptive characterization of the subject is as follows:

1. He is an extremely sensitive and insecure individual in his interpersonal relationships.
2. He is agressive [sic], doggedly determined and obsessively preoccupied with actions he feels are directed against him. This may well be an attempt to overcompensate for his insecurity in interpersonal relationships.
3. He expresses an extremely high evaluation of his own abilities. This is certainly in part related to reality --he is very bright, well informed over a wide area of data and is a hard driving worker. Again, it may in part be an overcompensation for interpersonal insecurity.
4. He has little tolerance for individuals who disagree with him and has no hesitancy in being very outspoken

in his views

5. At times he appears to be very self righteous, single minded and somewhat grandiose in his evaluation of the importance of affairs involving his activities in his personal life.
6. He is often secretive about his personal affairs, although whether this can best be described as representing a general suspiciousness of others and their motives or a life long tendency to keep his own counsel is unclear. It would appear, however, that the former is the case -- i.e., a general suspiciousness is often involved.
7. He is not a man of personal violence but does aggressively react to what he considers as attacks, both verbally and by recourse to various institutional actions, including legal actions.
8. His approach to many problems is highly technical, "scientific," or legalistic, which gives the appearance at times of concreteness and compartmentalization in his thinking. This may also appear to others as a hostile, suspicious or very circumscribed and guarded response to their questions and general communications. This would tend to produce in many people a negative interpersonal reaction. This is probably also another factor in making it difficul for him to pass off a casual remark or question with an equally casual or humorous response. This in turn would lead to potential verbal confrontations not anticipated by the other person or persons.

9. Many of the above characteristics would be expected to lead to animosity and counter hostility, as well as feelings of jealousy and other resentments in many associates and colleagues. His natural aggressiveness and interpersonal discomfort in many social situations would in turn lead to his overreacting and thus, a vicious cycle of negative interpersonal relationships would be set up.

RECOMMENDATIONS:

I would predict this man would often provoke many negative responses in some of those in contact with him, both colleagues and clients and that he might well resort to legal actions on many occasions when others avoid them. He certainly might be a source of time consuming arguments and litigations on occasions.

On the other hand, he has many assets that would make me predict adequate functioning in many professional roles. He is well informed, intellectually bright, honest to the extent that he will commit himself and highly motivated and determined to achieve goals which he selects as being of significance. I cannot say that his judgment in all situations and occasions would be objective or that his emotional reactions and biases would not at times color his objectivity. However, I do not see the characteristics I have outlined in the previous section as being of a degree that would allow me to recommend that he be excluded from the right to prac-

tice a profession for which he has been adequately trained.

(CAPTION) Filed April 27, 1983

O R D E R

On reconsideration, the Court grants aplicant's motion to withdraw from the stipulation submitting the matter to the master without evidentiary hearing. Therefore, the report of the master cannot be accepted and is also stricken.

It is also ordered that the order of April 20, 1982 referring the matter to the master be and hereby is vacated.

The Court proposes to make an independent review of fact and law. A review of the facts will extend to the following:

A. The record of SB-52-8, SB-52-9 and all other files of this Court pertaining to the original application for admission or any other matter filed by applicant in this Court.

B. The record in the United States District Court for the District of Arizona in Nos. CIV-76-872, CIV-76-924, CIV-78-214, CIV-79-175, CIV-80-289, CIV-78-193 and CIV-79-84.

C. The reports of Drs. Aaron H. Canter, Richard E. H. Duisberg and Michael J. Taylor.

In considering its own records and the files of the district court actions, the Court proposes insofar as possible to take judicial notice of the matters contained in each file.

The primary purpose of such action is to assist the Court in determining from applicant's actions and conduct whether he is mentally fit for the practice of law.

Within 15 days from the date of this order, applicant may file a written memorandum in support of his position with regard to any of the foregoing matters and with regard to the issues presented from

the record. Applicant may also present in writing within 15 days any factual matter which he wishes this Court to consider as part of the record. Such factual matter may be submitted by means of affidavit, written offer of proof or in a similar manner.

DATED this 27th day of April, 1983.

/s/ WILLIAM A. HOLOHAN
WILLIAM A. HOLOHAN, Chief Justice

(CAPTION)

Mailed from Iowa on May 4, 1983 and filed shortly thereafter

MOTION CONCERNING ORDER OF APRIL 27, 1983

* * *

For RONWIN to comply would be tantamount to:

(1) waiver of RONWIN's right to an evidentiary hearing; and,

(2) jousting at windmills.

* * *

Under the United States Supreme Court's idea of due process, Goldberg v. Kelly as quoted hereinabove and as is binding on this Court, RONWIN is entitled to:

(1) an evidentiary hearing;

(2) cross-examination of adverse witnesses and the calling of RONWIN's witnesses;

(3) be presented with the specifics of the charges against RONWIN and by whom made and upon what evidence. And it must be shown how any such evidence refutes RONWIN's prima facie showing and compliance with his burden, as even admitted by [the master], that RONWIN is mentally able to practice law.

(4) have an impartial decision maker who will rule on the "legal rules and evidence adduced at the hearing," Goldberg v. Kelly, supra.

RONWIN does not waive his right to the evidentiary hearing and to have the other due process safeguards regardless of what

"facts", and wherever this Court finds the "facts" that it intends to review. According to Goldberg v. Kelly, the place where this Court can find the "facts" and, the only place, are those "adduced at the hearing," 397 U.S. at 271, 90 S.Ct. at 1022.

* * *

Again, if the Court wants to use allegations from wherever, RONWIN demands an evidentiary hearing with the right to call and to cross-examine witnesses, to have necessary discovery in advance of any hearing and to have the hearing at a meaningful time and place before an impartial decision maker, Goldberg v. Kelly, supra.

* * *

DATED this 4th day of May, 1983.

/s/ EDWARD RONWIN
Edward Ronwin

(CAPTION) Filed May 25, 1983

The following action was taken by the Supreme Court of the State of Arizona on May 24, 1983 in regard to the above-entitled cause:

ORDERED: Motion Concerning Order of April 27, 1983 = DENIED.

Justice Stanley G. Feldman did not participate in the determination of this matter.

S. ALAN COOK, Clerk

By /s/ ANNA L. CATES
Chief Deputy Clerk

(Motion of Petitioner in a case whose record was allegedly viewed by Respondent, See Appendix, pp. 55-56, supra.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

EDWARD RONWIN, Plaintiff,	)	
	)	NO. CIV 76-872
vs.	)	PHX MLR
DONALD D. DAUGHTON,	)	

Defendant)
)

MOTION FOR ORDER DIRECTING CORRECTION OF THE TRANSCRIPT OF PROCEEDINGS AND FOR ORDER VACATING JUDGMENT

* * *

"Your Honor, once again, I'm Jeremy Butler for my partner, John Frank, who is here in the courtroom.." (emphasis in original).

Mr. Butler then proceeded to explain, p.77, lines 7-11, T[ranscript of] P[roceedings]:

"In connection with what he claims part of the conspiracy pages left out of the Record, I'm advised that Mr. Ronwin made his own provision of what part of the Record he would enclose as a matter of economics. What he picked, we don't know." (emphasis and underlining in the original).

Mr. Butler does not speak the truth; possibly knowingly but certainly at the direction of Defendant FRANK who was in the courtroom and who certainly knew differently.

* * *

RESPECTFULLY SUBMITTED this 25th day of April, 1977.

(signature of Petitioner)

Affidavit of court reporter attached to the foregoing motion as an exhibit was captioned as follows:

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of the Application of EDWARD RONWIN to be admitted as a member of the State Bar of the State of Arizona

No. SB 52-2

STATE OF ARIZONA)
) ss. AFFIDAVIT
COUNTY OF MARICOPA)

I, JANICE SKILLMAN, a notary public in and for the State of Arizona, County of Maricopa, did take down in shorthand and reduce to typewriting a hearing before the Special Committee on Examinations and Admissions of the Supreme Court in the above entitled matter, held on January 6 and January 7, 1975.

The transcript of testimony ordered was completed and delivered to Edward Ronwin

on April 25, 1975. Said portion was ordered by Mr. John Frank, who at that time requested deletion of all argument. Subsequent to the delivery of that transcript Edward Ronwin requested the arguments of counsel be incorporated to make a complete transcript.****

(Signature and Jurat)

Defendant, John Frank's Response to Ronwin's motion is captioned identically to Ronwin's motion, see Appendix, pp. 60-61, supra.

(CAPTION) No. CIV 76-872 PHX MLR

RESPONSE TO MOTION FOR ORDER DIRECTING CORRECTION OF TRANSCRIPT

It is true * * *.

(Signature)

**** (Petitioner's footnote): What was actually deleted was not "argument," but testimony of witnesses and highly relevant objections made by John Frank at said proceedings.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1983

No. 83-465

EDWARD RONWIN,

Petitioner,

v.

THE SUPREME COURT
OF THE STATE OF
ARIZONA,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ARIZONA

John J. Bouma
Counsel of Record
Lawrence F. Winthrop
SNELL & WILMER
3100 Valley Bank Center
Phoenix, Arizona 85073
(602) 257-7211
Attorneys for Respondent

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QUESTION PRESENTED FOR REVIEW

Did Respondent Court Deprive Petitioner Of Any Right, Privilege Or Immunity Secured By The United States Constitution Or Laws?

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STATEMENT OF JURISDICTION

Respondent does not question the jurisdiction of this Court to issue a Writ of Certiorari to the Supreme Court of Arizona in an appropriate case under 28 U.S.C. §1257(3).

However, petitioner has failed to comply with Rules 17 and 21(j), Rules of the United States Supreme Court, by failing to specify any special or important reason for this Court to grant review on a Writ of Certiorari. In fact, the only issue in this action is extremely narrow, applies to one limited situation, and was decided by the Arizona Supreme Court on a basis fully consistent with prior decisions of this Court.

STATUTES AND RULES INVOLVED

Rule 28(a) and the applicable parts of Rule 28(c), Rules of the Arizona Supreme Court, are set forth in the Appendix at A-1.

OPINION BELOW

The Opinion of the Arizona Supreme Court, In the Matter of Ronwin, ____ Ariz. ____, ____ P.2d ____, No. SB 52-8/52-9 (filed July 6, 1983), is set forth in the Appendix to Petitioner's Brief (hereinafter "Pet. App.") at page A-1.

STATEMENT OF THE CASE

Petitioner's attempt to gain admission to the practice of law in the State of Arizona has resulted in several judicial proceedings, reference to which is necessary to understand the background of the current Petition.

Rule 28(c)(IV), Rules of the Arizona Supreme Court, defines the requirements which applicants for admission to the State Bar of Arizona must meet. The rule requires that a Committee on Character and Fitness ("Committee"), appointed by the Arizona Supreme Court, recommend an

applicant for admission to the State Bar of Arizona only if the Committee is satisfied that the applicant is "mentally and physically able to engage in active and continuous practice of law." (A-2).

Petitioner sat for and failed Arizona's February, 1974 bar examination, and ultimately requested this Court to review his examination results on a Writ of Certiorari, which request was denied. Ronwin v. Committee on Examinations and Admissions of the Supreme Court of Arizona, 419 U.S.967 (1974).

Petitioner applied for permission to take the July, 1974 examination; however the Committee informed Petitioner it was unable to find him mentally and physically able to engage in the active and continuous practice of law and, therefore, would not allow him to take the exam. On September 24, 1974, the Arizona Supreme

Court appointed a Special Committee on Examinations and Admissions ("Special Committee") to conduct a formal hearing pursuant to Rule 28(c)(XII)(D), Rules of the Arizona Supreme Court, for the sole purpose of determining whether Petitioner was mentally able to engage in the continuous practice of law.

Following completion of substantial discovery, the Special Committee held a formal hearing on January 6 and 7, 1975. Petitioner was present and represented by counsel. During that hearing, the Special Committee heard the testimony of 17 witnesses, including Petitioner, and received 20 exhibits in evidence. Included in the exhibits was deposition testimony of four additional witnesses. The witnesses included academic associates, some of petitioner's law school professors and fellow students, practicing attorneys for

whom petitioner had done legal research, two psychiatrists and one clinical psychologist.

On January 21, 1975, the Special Committee issued its findings and concluded Petitioner was not mentally able to engage in active and continuous practice of law.

On January 28, 1975, Petitioner filed a Petition for Review with the Arizona Supreme Court, the body responsible for finally determining questions of admissions. (See Rule 28(a), A-1). On July 6, 1976, the Arizona Supreme Court, after independently analyzing the record of the hearing, unanimously affirmed the Special Committee's conclusion and denied petitioner's application to be admitted to the State Bar. Application of Ronwin, 113 Ariz. 357, 555 P.2d 315 (1976). A Petition for a Writ of Certiorari filed

in January, 1977, seeking review of this decision, was denied. Ronwin v. The Committee on Examinations and Admissions of the Supreme Court of Arizona, 430 U.S. 907 (1977).

While review of the decision in Application of Ronwin, supra, was pending, Petitioner commenced two actions in the United States District Court for the District of Arizona, both based upon alleged violations of the Civil Rights Act of 1866, 42 U.S.C. §1981, et seq. The first, Ronwin v. Daughton, No. CIV 76-872 PHX MLR, named as defendants the members of the Special Committee; the Dean and Associate Dean of Arizona State University College of Law, both of whom had testified on behalf of Petitioner at the Special Committee's hearing; the attorney who represented the State Bar of Arizona during the hearing; a psychologist who

testified at such hearing; and Petitioner's own lawyer, claiming that they had all conspired to "orchestrate" a sham proceeding. The Ninth Circuit Court of Appeals affirmed the district court's granting of judgment in favor of defendants. Ronwin v. Daughton, No. 77-2318 (9th Cir. August 9, 1979).

The second action, Ronwin v. Segal, No. CIV 76-924 PHX MLR, named as defendants the members of Arizona's Committee on Character and Fitness, and was filed when the Committee failed to recommend Petitioner for admission to the Arizona Bar following his application of August 30, 1976. The Ninth Circuit Court of Appeals affirmed the granting of judgment in favor of respondents, Ronwin v. Segal, No. 77-2567 (9th Cir. November 14, 1980), and this Court denied Ronwin's Petition for a Writ of Certiorari, Ronwin v. Segal, 450 U.S. 1041 (1981).

Petitioner reapplied to take the Arizona bar exam in February and July, 1977, February, 1978, February, 1979, and in February, 1980. Each such application was denied.[1/] During this time period, Petitioner instituted further litigation directed to the denial of his admission to the State Bar of Arizona.

In Ronwin v. State Bar of Arizona, No. CIV 78-193 PHX WPC MLR, filed March 13, 1978, an antitrust action was dismissed by the federal district court on October 12, 1979. The Ninth Circuit of Appeals reversed in part, holding that, on the record as it existed at the time of the district court dismissal, it had not been sufficiently established that

---

1/ Ronwin's Petition for a Writ of Certiorari concerning the denial of petitioner's application to take the February, 1978 bar examination was denied by this Court in Ronwin v. The Supreme Court of Arizona, 439 U.S. 828 (1978).

the allegedly anti-competitive bar examination procedures were "clearly articulated and affirmatively expressed as state policy" and "supervised" by the Arizona Supreme Court so as to qualify for immunity under the antitrust laws. 686 F.2d 692 (9th Cir. 1982), cert. granted, 51 U.S.L.W. 3825 (No. 82-1474) (May 16, 1983).

In Ronwin v. Gage, et al, No. CIV 78-214 PHX MLR, Petitioner brought a civil rights action against the State Bar Administrative Committee and its members, wherein Petitioner, inter alia, accused prominent attorneys (including his former counsel) of deceiving the Court as to the identity of a person who allegedly altered an official transcript; accused an Arizona Supreme Court Justice of ulterior motives; alleged that the 1975 hearing was an engineered sham soaked with fraud,

covered with unlawful activity of State Bar counsel, the Committee Chairman and members of the Committee; alleged that the State Bar's questioning of Petitioner's mental status was retaliation for his criticism for the method of grading the 1974 bar exam; and alleged that the claimed mental malady of Petitioner was a product of criminal minds. Summary judgment was granted defendants on October 12, 1979.

In Ronwin v. von Ammon (von Ammon I), No. CIV 79-175 PHX WEC CAM, another civil rights action brought in the federal district court of Arizona, Petitioner, inter alia, alleged that counsel for the State Bar had engaged in criminal activity by deliberately lying to the federal district court and the Arizona Supreme Court, and had attempted to play a fraud on those courts and that such fraud had been tol-

erated by the judiciary; alleged the same lawyers attempted to and did influence two federal judges surreptitiously; claimed that a federal judge knowingly tolerated illegal activity; alleged that the defendants conducted illicit schemes wherein members of the Arizona State Bar maintained unlawful contact with and influence over members of the Arizona and Federal judiciary; alleged that an Arizona Supreme Court Justice was fully in league with fraud perpetrated by the same lawyer; claimed that the principal defendant in the case, an attorney representing the State Bar, engaged in surreptitious signalling with the federal judge; alleged that evidence in Ronwin v. Daughton, supra, and Application of Ronwin, supra, had been tampered with and alleged that counsel for the State Bar had used tricks to avoid fair deposition

practice, reneged on agreements, was anti-Semitic and pro-Nazi, and used deliberate vilification and deception. This action was partially dismissed on May 21, 1979, and finally dismissed on July 19, 1980.

In Ronwin v. von Ammon (von Ammon II), No. CIV 80-289 PHX CAM, a civil rights action was filed in the federal district court in Arizona wherein Petitioner, inter alia, alleged that the actions of the Arizona Supreme Court Justices in denying admission to the Bar were "no longer to be taken as earnest judicial determinations"; asserted the existence of conspiracy and discrimination; alleged that a prominent attorney had engaged in criminal activity; claimed that a Motion for Security for Costs was granted by a Judge who was manipulated by the same prominent attorney and who knowingly tolerated

criminal behavior by the lawyers; alleged that the Motion for Security for Costs was a ruse intended to deny Petitioner his day in Court; asserted that members of the State Bar Committee had engaged in criminal denial of Petitioner's rights; alleged that the former Dean of the Arizona State University Law School participated in an engineered rigging of the Special Committee hearing; alleged that one or more of the Arizona Supreme Court Justices' law clerks had surreptitiously influenced and shaded the record and the Justices' view of matters; accused the Clerk of the United States District Court for the District of Arizona of engaging in a conspiracy; alleged that an assistant United States Attorney abandoned his obligations in defending a federal judge instead of prosecuting him; and alleged that the defendants fabricated evidence

to protect themselves against charges of misconduct. This action was dismissed in part on July 18, 1980, and in whole on January 28, 1981. Petitioner's appeals in von Ammon I and von Ammon II were consolidated (81-548 and 81-549) and affirmed by the Ninth Circuit Court of Appeals, Ronwin v. von Ammon, 688 F.2d 848 (9th Cir. 1982).

In Ronwin v. Shapiro, No. CIV 79-84 TUC MAR, Petitioner filed a defamation action against the author of a case note in the Arizona Law Review, the editor of the Review and the Arizona Board of Regents.[2/] This action was dismissed by the Federal District Court on January 25, 1980, and affirmed by the Ninth Circuit Court of Appeals, Ronwin v. Shapiro, 657 F.2d 1071 (9th Cir. 1981).

2/ The subject Law Review article can be found at 19 Ariz. L. Rev. 672-683 (1977).

Petitioner's eighth application for admission (SB-52-8), filed December 15, 1980, was not acted upon until supplemented several times at the Court's request. In October of 1981, the Court ordered that Petitioner be permitted to take the February, 1982 bar examination but reserved the issue of his mental status.

Petitioner's response to the Court's Order granting him leave to take the February, 1982 bar examination was a letter dated November 9, 1981, accusing the Chief Justice of the Arizona Supreme Court of manufacturing grounds for delay and of deliberate bad faith and vengeful motives; accusing the Arizona Supreme Court and its bar appointees of anti-Semitism; alleging that the Special Committee conducted an engineered fraud; accusing seven members of the bar and one

Justice of the Arizona Supreme Court of conspiring to give substance to baseless charges; alleging that the Chief Justice of the Arizona Supreme Court had a sadistic bent and utter disrespect for Constitutional government; and accusing the secretary of the State Bar of violating the anonymity of the bar examination examinees.

Petitioner took but failed to pass a portion of the examination in February; however, following his ninth application (SB-52-9), Petitioner took and passed the July, 1982 examination.

On April 20, 1982, the Arizona Supreme Court granted Petitioner a hearing on his application for admission and appointed the Honorable Paul W. LaPrade, Judge of the Arizona Superior Court, to act as Court Master in conducting the hearing. A pre-hearing conference was

held in May, 1982, and, as reflected in its Order of June 30, 1982, since it was apparent from that conference, prior pleadings and correspondence that Petitioner intended to use any such hearing to relitigate Application of Ronwin, supra, the respondent Court limited the hearing to the pending application, as supplemented and amplified, and to consideration of evidence bearing upon Petitioner's current qualifications to practice law.

On October 19, 1982, Petitioner stipulated in writing that the Court Master could decide the issue without a formal evidentiary hearing, based upon the contents of the record in SB-52-8 and SB-52-9 and upon current written psychiatric/psychological reports. Petitioner subsequently moved for Permission to Withdraw from the Stipulation,

contending that it was too limiting in the matters the Court Master could consider, which Motion was denied.

The Court Master's Report, which was filed with the Arizona Supreme Court on November 4, 1982, concluded that Petitioner was not mentally fit for the practice of law. In reaching this conclusion, however, Judge LaPrade went beyond the limits of the Stipulation and considered pleadings and affidavits signed and filed by Petitioner in the various federal district court cases described above. The Arizona Supreme Court struck the extraneous matters from the Report; however, because Judge LaPrade's Report was based on many evidentiary items which were not within the parameters of the Stipulation, the Court decided not to rely on such Report but to make an independent review of the record. (Order of

Arizona Supreme Court, filed April 27, 1983) (Pet. App. at A-55). In the same Order, Petitioner was allowed to file a memorandum directed to this procedure and to the issues raised by the record, and specifically directed to submit by affidavit or offer of proof any other factual matter which he wished the Court to consider. Petitioner did file a 15 page document entitled "Motion Concerning Order of April 27, 1983," in which he reiterated his version of the Application of Ronwin scenario, vilified each of the Justices of the Arizona Supreme Court, requested that all psychiatric/psychological reports on file be considered and refused to waive an evidentiary hearing on his various allegations of conspiracy and misconduct on the part of judges, lawyers, teachers, physicians and others, but chose not to submit any further factual information.

Upon review of all pertinent records, submissions by Petitioner and other pertinent materials, the Arizona Supreme Court issued its written Opinion denying admission to the State Bar. (SB 528/SB 52-9, Opinion filed July 6, 1983) (Pet. App. A-1.) Petitioner's request for a Writ of Certiorari followed.

REASONS FOR DENYING THE WRIT

A. Petitioner Has Defined No Special Or Important Reason Which Justifies Review On A Writ Of Certiorari.

Petitioner has not challenged the constitutionality of any State statute or Court rule governing membership in the State Bar of Arizona. He has defined no conflict among the decisions of Federal or State courts. He has pointed to no question of Federal law raised in this matter which has not been settled by this Court. Instead, Petitioner seeks review of a factual situation that is both unique

and extremely limited in scope. In short, Petitioner has advanced no reason to justify review on a Writ of Certiorari.

In refusing Petitioner admission to the State Bar of Arizona, the Arizona Supreme Court was simply exercising its recognized right to gauge on a case-by-case basis the fitness of a particular applicant to practice law. In re Griffiths, 413 U.S. 717 (1973). The States unquestionably retain authority to require high standards of proficiency, including "good moral character" or "mental ability," as prerequisites for the granting of a license to practice law. As this Court recognized in Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232, 249 (1957):

> To a wide and deep extent, the law depends upon the discipline standards of the profession and belief in the integrity of the courts. We cannot

> have failed to accord such confidence to the State process, and we must attribute to its courts the exercise of a fair and not a biased judgment in passing upon the applications of those seeking entry into the profession.

Unless the refusal to grant an applicant admission to its Bar is based upon wholly arbitrary standards or upon considerations that offend the dictates of reason, such decisions must be left to the individual State courts:

> Especially in this realm, it is not our business to substitute our judgment for the State's judgment -- for it is the State in all the panoply of its powers that it is under review when the action of its Supreme Court is under review. Id. at 248.

No suggestion has been made in Petitioner's Brief that Arizona's procedure for determining questions of admission discriminates on the basis of an inherently suspect classification, In re Grif-

fiths, supra; improperly inquires into an applicant's views and beliefs, Baird v. State Bar of Arizona, 401 U.S. 1 (1971); denies admission because of an applicant's refusal to divulge information protected by the First Amendment, Application of Stolar, 401 U.S. 23 (1971); or applies invalid statutes and rules, Law Students Civil Rights Research Council, Inc. v. Wadmond, 401 U.S. 154 (1971). Accordingly, the Petition should be summarily denied.

B. Petitioner Was Not Deprived Of Any Right, Privilege Or Immunity Secured By The United States Constitution And Laws.

A fair reading of Petitioner's Brief indicates that he believes the process afforded him produced an unfair result. Even if that were true, the fact that Arizona rules and procedures pertaining to Bar admission may result in incidental individual inequality does not render

them offensive to the due process elements of the Fourteenth Amendment. Martin v. Walton, 368 U.S. 25 (1961).

Petitioner presents two arguments: First, that the Arizona Supreme Court's prior decision in Application of Ronwin, supra, was improper; and second, that the most recent opinion of the Respondent Court was also in error. Petitioner's first argument has been raised in several federal court actions, and has been rejected in each such instance. Additionally, this Court has declined to grant Certiorari in no less than four of these cases. The Arizona Supreme Court's decision in Application of Ronwin, supra, is final, and the doctrines of res judicata and collateral estoppel serve to preclude any further litigation arising out of this Opinion. Sea-Land Services, Inc. v. Gaudert, 414 U.S. 573 (1974); Ashe v. Swenson, 397 U.S. 436 (1970).

Petitioner's argument, therefore, is limited to alleged improprieties in the Arizona Supreme Court's review of Petitioner's most recent application and in its Opinion denying admission to the State Bar. The nature of Respondent's review has been previously discussed, and is set forth both in its Order of April 27, 1983 (Pet. App. at A-55), and its Opinion of July 6, 1983 (Pet. App. at A-1). Petitioner's contention that a more formal evidentiary hearing is mandated lacks merit.

This Court has emphasized on several occasions that due process of law does not require a hearing in every conceivable instance. Rather, because the very nature of due process requires flexible procedures, each set of circumstances must be examined to determine exactly "what process is due" in the particular context.

Stanley v. Illinois, 405 U.S. 645 (1972). Only through an examination of particular circumstances can a determination be made as to what sort of hearing must be afforded. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950).

Petitioner made it abundantly clear that any "evidence" he wished to present would be, in effect, an attempt to relitigate Application of Ronwin, supra.[3/] As discussed above, such "relitigation" is impermissible. The pertinent issue is petitioner's current ability and qualifications to practice law in Arizona. Cognizant of the relevant issue, the Court's inquiry was properly limited to the events that occurred subsequent to its 1976

3/ Petitioner has filed numerous Motions for Rehearing of Application of Ronwin, the most recent of which was a 26 page brief filed August 27, 1982.

Opinion, including the recent psychiatric/ psychological reports.[4/]

Following the initial hearings in 1975, the Special Committee had found that petitioner was suffering from an established personality disorder of a character and pattern which, in its opinion, would persist in the event Petitioner was admitted to the practice of law. In its 1976 decision upholding the Special Committee's finding, the Arizona Supreme Court had stated:

> We believe that it is imperative that the term "mentally . . . able to engage in active and continuous practice of law" be construed to exclude persons whose long-standing personality traits indicate an obvious in-

---

[4/] It should be noted that, although directed to do so, Petitioner failed to submit any additional factual material to Respondent following its Order of April 27, 1983, other than a request that Respondent review prior psychiatric/ psychological reports, which it did.

> ability to get along with authority figures under situations of minor stress and conflict, whether or not these personality deficiencies rise to the level of medically recognized and categorized mental disorders. 113 Ariz. at 359, 555 P.2d at 317.

The findings of the Special Committee in 1975 were based upon expert psychiatric/psychological testimony. As part of the assessment of Petitioner's current mental capability to practice law in Arizona, he agreed to be re-examined in July of 1982 by both a psychiatrist, Dr. Richard Duisberg, and a psychologist, Dr. Aaron Canter.

While both doctors found that petitioner does not have a recognized mental disorder or abnormality which would necessarily impair his capacity to conform to the rules and ethical considerations of the Arizona and American Bar Associations, both found that petitioner does

have a "Compulsive Personality Disorder" as defined on Axis II of the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) (DSM-III) published by the American Psychiatric Association. A description of this Disorder and its diagnostic criteria can be found in the Appendix at A-6.

As a result of his examination, Dr. Duisberg found, in part:

> [Petitioner] is obviously lacking in emotional flexibility and the ability to compromise. He sees black and white quite clearly but is blind to gray. Thus, he is over-zealous in the pursuit of what he considers to be justice -- not only for himself but in general.
>
> Although paranoid attitudes are present, they are not based on delusional thinking, but rather on his inflexibility and meticulous dedication to perfectionism.
>
> The DMS III contains descriptions of a large number of emotional disorders, including organic, functional and charac-

terological ones. The latter cover a wide area and every "normal" individual manifests traits and behavior patterns included in these profiles.

It is my opinion that the applicant can best be classified as fitting the pattern of "compulsive personality disorder" (DMS III, 300.40 [sic]). As a result of the inflexibility inherent in this type of personality he has, in recent years, become increasingly entangled in his compulsive quest for "justice." Though this certainly has paranoid features, I do not feel that he is lacking in a capacity for objective evaluations in other areas. Indeed, he might even prove effective in matters concerning civil rights, liabile [sic], etc., though in these areas he might find himself excessively emotionally involved.

I believe that he is, as a perfectionist, essentially ethical, conscientious and reliable though not necessarily likeable. As is characteristic of most compulsive personalities, he is probably excessively devoted to work and duty to the exclusion of pleasure and inter-personal relationships. He is probably restricted in his ability to express friendly emotions, being overly serious, formal and con-

ventional. He is clearly unable to submit to situations which he feels are unfair or unjust and is deficient in awareness of his own role in eliciting from others criticism, rejection or difference of opinion. He has, as most perfectionists, a lack of ability to grasp generalities but is overly preoccupied with details, rules, regulations, etc.

Dr. Canter reached similar conclusions:

> Detailed analysis of [petitioner's] Rorschach performance strongly suggests a compulsive personality structure. The current Rorschach reveals ideational productivity, meticulous description of the blots, emphasis on symmetry and precision, and obsessive preoccupation with minutiae, all of which are typical of the compulsive individual. His test behaviors suggest that in life situations he would tend to lose sight of the broader issues and/or the emotional aspects of problem situations. He is inclined to be highly scientific and legalistic in his approach, with a lack of warmth or empathy for his fellow man. This paucity of empathy and sensitivity to the feelings of others would be a barrier to effective inter-

personal relationships. Many people would experience him as an abrasive, aggressive, hostile individual.

The suspiciousness, hypersensitivity,, secretiveness, and obsessive pre-occupation with actions he feels are directed against him, are all behaviors which suggest, of course, elements of paranoid personality disorder. However, after careful consideration, it is my professional judgment that the psychological examinations and behaviors are most consistent with the diagnostic criteria of a compulsive personality disorder (301.40 on Axis II of DSM III.) Among the primary criteria for this diagnosis are restricted emotionality, perfectionism, the insistence that others submit to one's way of doing things, and excessive devotion to work productivity. These are the elements which, according to the present psychological examinations, are most dominant in Dr. Ronwin.

Petitioner also submitted the medical report of Dr. Taylor, a psychiatrist who examined petitioner in Iowa. Although Dr. Taylor reported that he found no indication that Petitioner now suffers from

any type of mental illness, disorder or defect, he acknowledged that Petitioner possessed personality traits "which might be termed unpleasant or abrasive by those adopting positions in opposition to those held by [Petitioner]." Dr. Taylor could only state that it was "possible" (not probable) that such personality traits would not impair Petitioner's ability to competently practice law. In summary, the professional opinions indicate no significant change in Petitioner's attitudes or conduct, which conclusion is reinforced by an examination of Petitioner's letters, pleadings and affidavits over the last nine years.

The main case upon which Petitioner relies does not support his position that the Respondent Court has violated his rights. In Schware v. Board of Bar Examiners of State of New Mexico, supra, the

important inquiry was whether the applicant was currently qualified to be admitted to the practice of law. The key to the Court's decision in favor of the applicant was the fact that his conduct for the fifteen years preceding his application for admission to the Bar had been exemplary. In the instant case, Petitioner has consistently demonstrated through conduct and in writing his inability to accept or put to rest the events that occurred nine years ago, or to professionally engage in an adversarial situation. Such actions were succinctly summarized by the Arizona Supreme Court in its most recent Opinion:

> From examination of the pleadings and affidavits prepared, signed and filed by Ronwin in our files and in the various Federal Court actions, it is apparent that applicant's personality disorder affects his conduct. With neither care nor caution, and restrained only

> by the outer limits of his intense anger, Ronwin has filled his pleadings with allegations of serious misconduct against the willing and unwilling participants in the proceedings that have led him to his present plight. These are not allegations of legal error, but, rather, accusations of knowing misconduct, plus misfeasance in office. (Pet. App. at A-21-22.)

As the respondent Court further pointed out in its Opinion:

> Lawyers certainly have the right to become outraged and to resort to litigation when they have a good-faith belief that they have been wronged, but they do not have the right to file actions or commence proceedings which are vexatious or harassing in nature. See In re Martin-Trigona, 55 Ill.2d 301, 308-10, 302 N.E.2d 68, 72-73 (1973); see also, Matter of Wetzel, 118 Ariz. 33, 35, 574 P.2d 826, 828 (1979). Nor do lawyers have the right to behave inappropriately while acting as lawyers, even when they are representing themselves. See In re Martin-Trigona, supra; In re Mezzacca, 67 N.J. 387, 389, 340 A.2d 658, 659 (1975).
>
> These principles are not limited to case law. Arizona

has adopted, with some modifications, the Model Code of Professional Responsibility. Rule 29(a). DR 7-106(C)(6) states that a lawyer shall not "[e]ngage in undignified or discourteous conduct which is degrading to a tribunal." DR 8-102(B) states that a "lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer." Ariz. R. Civ. P. 11 also forbids inserting "scandalous or indecent" matters in pleadings and requires a belief in the existence of good grounds to support all allegations, with provision for disciplinary action where appropriate. Implicit in these rules is the requirement that lawyers exercise restraint in language and deed while acting as lawyers, particularly in relation to litigation. See Model Code of Professional Responsibility EC 7-36, 7-37, 7-38 (1980). The rules are explicit on the question of litigation. A lawyer "shall not" file actions, assert positions or take other action on behalf of clients when he or she knows "or when it is obvious that such action would serve merely to harass or maliciously injure another." DR 7-102(A)(1) (emphasis supplied). Nor should they file claims or actions unless the case is supported by law or tenable argument. Id.

(A)(2). What lawyers cannot do for clients, they cannot do for themselves. Matter of Wetzel, supra. Violation of the foregoing requirements is grounds for denial of admission. In re Martin-Trigona, supra; Application of Feingold, 296 A.2d 492, 500 (Me. 1972). (Pet. App. at A-18-21.)

After citing examples from Petitioner's various federal court filings (see pp. 6-14 above), the Arizona Supreme Court concluded:

> The examples cited suffice to establish that Ronwin's reaction to adversity manifests itself in behavior which is grossly improper for a lawyer and which cannot be tolerated. This conclusion does not evince a lack of toleration for Ronwin; it simply acknowledges that we can make no special rule for Ronwin. What is permitted Ronwin is necessarily permitted all other members of our Bar. Habitual filing of actions against adjudicatory officers, witnesses and opposing counsel is both vexatious and harassing. Worse, it is a tactic calculated to intimidate. It cannot be tolerated unless we are willing to surrender reason to those whose conduct is uninhabited by

realty and civility. Adjudication of facts and resolution of legal disputes cannot be properly accomplished in the absence of restraint and civilized behavior by lawyers. Care with words and respect for courts and one's adversaries is a necessity, not because lawyers and judges are without fault, but because trial by combat long ago proved unsatisfactory. (Pet. App. at A-26-27.)

* * *

We acknowledge, arguendo, that applicant believes he is the victim of a conspiracy which encompasses this court, most of the federal bench, the organized Bar, the Bar Committees and the lawyers who have participated in the various cases. This is the recurring theme in the civil rights actions which Ronwin filed. We think, however, that Ronwin's sincere belief in this supposed, wide-ranging conspiracy against him is not all that is required for the practice of law. Belief unrelated to reason is a hallmark of fanaticism, zealotry or paranoia rather than reasoned advocacy. The practice of law requires the ability to discriminate between fact and faith, evidence and imagination, reality and hallucination. Further, epithets, verbal abuse,

> unfounded accusations and the like have no place in legal proceedings. While occasional lapses in decorum are usually overlooked, Ronwin's transgressions exceed occasional anger or loss of control. They form a pattern and a way of life which, on this record, appears to be applicant's normal reaction to personal or professional adversity. (Pet. App. at A-31-32.)

This Court has consistently upheld the States' right to determine whether an applicant has the requisite qualities of character, mental fitness and professional competence necessary for the practice of law. In Baird v. State Bar of Arizona, supra, the petitioner claimed her first amendment rights had been violated as a result of certain questions on the bar application form. In distinguishing between what could and could not be regulated by the State, the Court held:

> "[T]he [First] Amendment embraces two concepts - freedom to believe and freedom to act.

> The first is absolute, but, in the nature of things, the second cannot be. Conduct remains subject to regulation for the protection of society." 401 U.S. at 5, quoting Cantwell v. Connecticut, 310 U.S. 296, 303-304 (1940).

Petitioner herein has consistently demonstrated a lack of respect for the administration of justice through his vilification of both the judiciary and those he perceives as adversaries. Such conduct is not constitutionally protected, and has in other cases resulted not only in denial of admission to practice, but also disciplinary action or disbarrment proceedings against those previously admitted. See generally, Annot., Licensing And Regulation Of Attorneys As Restricted By Rights Of Free Speech, Expression And Association Under First Amendment, 56 L.Ed.2d 841 (1979); Annot., Attorney's Criticism of Judicial Acts As Ground For

Disciplinary Action, 12 A.L.R.3d 1408 (1967).

In summary, although Petitioner may be academically qualified, he has not demonstrated that he is mentally fit to practice law. The refusal to accept the finality of Application of Ronwin, supra, the filing of unwarranted, vexatious and harrassing actions, the consistent use of intemperate and provocatory language and ephithets, the demonstrated lack of control, restraint and civility and the persistent habit of vilifying those he perceives as adversaries all point to one conclusion. As the Illinois Supreme Court held in a somewhat similar case:

> While it is not challenged that [the applicant] may possess the requisite academic qualifications to practice law, the record overwhelmingly establishes that he lacks the qualities of responsibility, candor, fairness, self-restraint, objectivity and

respect for the judicial system which are necessary adjuncts to the orderly administration of justice. In re Martin-Trigona, 55 Ill.2d at 312, 302 N.E.2d at 74.

CONCLUSION

The decision and actions of the Arizona Supreme Court were consistent with the decisions of this Court and the due process requirements of the Fourteenth Amendment. The Petition for Writ of Certiorari should be denied.

RESPECTFULLY SUBMITTED this 15th day of October, 1983.

SNELL & WILMER

By _____
John J. Bouma
Counsel of Record
Lawrence F. Winthrop
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LFW/4/L

RULES 28(a), 28(c)IV, 28(c)XIIL.C AND 28(c)XII.F, RULES OF THE ARIZONA SUPREME COURT

Rule 28. Examination and Admission

28(a) Committees on examinations and admissions: powers and duties. The examination and admission of applicants for membership in the State Bar of Arizona shall conform to this rule. For such purposes two committees shall be constituted. One Committee shall be the Committee on Examinations. The other Committee shall consist of seven active members of the State Bar appointed by the Court upon the recommendation of the Board of Governors of the State Bar which shall recommend at least three members of the State Bar for each appointment to be made. Members of the two Committees shall serve for seven year terms. In the case of the Committee on Character and Fitness now being separately established the seven initial appointments shall be for terms of seven, six, five, four, three, two and one year respectively. Thereafter, upon the expiration of a member's term, the Court shall appoint a new member to serve for a term of seven years. As to each Committee, in the event of a resignation or inability of a committee member to serve, the Court shall appoint another person to serve the unexpired term. The Committee on Examinations shall examine applicants and advise this Court and the Committee on Character and Fitness of those who have passed the examination for admission to the State Bar of Arizona. The Committee on Character and Fitness shall recommend to this Court for admission to the State Bar of Arizona

those individuals who, having passed the examination for admission to the State Bar of Arizona, are deemed by the Committee to be qualified on the basis of character and fitness. The Court will then consider the recommendations and either grant or deny admission.

* * * *

28(c) Rules governing admission of applicants to the State Bar of Arizona, as amended.

* * * *

IV. APPLICANT REQUIREMENTS AND QUALIFICATIONS

On the basis of a properly completed application timely filed the applicant will be entitled to sit for the bar examination.

No applicant for admission to the State Bar of Arizona shall be recommended for admission by the Committee on Character and Fitness unless the Committee is satisfied:

1. That the applicant is or at the time of the examination will be over the age of twenty-one (21) years:

2. That he is of good moral character:

3. That he is mentally and physically able to engage in active and continuous practice of law;

4. That he is a graduate of a law school provisionally or fully approved by the American Bar Association at the time of his graduation; provided that this requirement shall not apply to an applicant who has been actively engaged in the practice of law in some other state or states for at least five (5) years of the last seven (7) years prior to his application for admission to practice in Arizona.

5. That, if admitted to practice in any other state or states, he is in good standing in every such state.

The Committee on Character and Fitness may provide for early filing of an intention to seek admission to the State Bar of Arizona on the part of Arizona law students, after completion of their first year at the University of Arizona College of Law or Arizona State University College of Law, to enable expeditious inquiry into the character and fitness of the applicant and to facilitate the giving of advice and counsel on issues relating to character and fitness.

The Committee on Character and Fitness should endeavor to complete its inquiries on character and fitness so as to be in a position to recommend for or against a successful examinee's admission to the State Bar of Arizona no later than the time the results from the bar examination are available. In extraordinary cases more extended time for inquiry and

formulation of a recommendation may be required.

XII. RULES GOVERNING PROCEDURE BEFORE THE COMMITTEES

* * * *

C. Formal Hearings on Character and Fitness. If the Committee on Character and Fitness is unable to make the findings required to support a recommendation for the aoplicant's admission with respect to character and fitness, the Committee shall hold such hearing or hearings as may be reasonably required to enable the Committee to pass upon the applicant's qualifications. Notice of such hearing or hearings shall be given to the applicant in writing specifying the time and place for the hearing and advising the applicant as to the subject and purpose of the hearing.

After the hearing or hearings the Committee on Character and Fitness shall report to the Court its findings that the applicant meets the character and fitness requirements and should be admitted or that the Committee is unable to make such findings and recommendation, as the case may be. The applicant shall at the same time be informed of the Committee's recommendation.

* * * *

F. Review by the Supreme Court.

1. An applicant aggrieved by any decision of the Committee on Examinations or the Committee on Character and Fitness may within 20 days after such occurrence file a verified petition with this Court

for a review. The petition shall succinctly and briefly state the facts which form the basis for the complaint, and applicant's reasons for believing this Court should review the decision of the Committee on Examinations or the Committee on Character and Fitness.

2. A copy of said petition shall be promptly served upon the chairman or some member of the Committee from which the complaint arose and that Committee shall within 15 days of such service transmit said applicant's file and a response to the petition fully advising this Court as to that Committee's reasons for its decision and admitting or contesting any assertions made by applicant in said petition. Thereupon this Court shall consider the papers so filed together with the petition and response and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of that Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

301.40 Compulsive Personality Disorder

The essential feature is a Personality Disorder (p. 305) in which there generally are restricted ability to express warm and tender emotions; perfectionism that interferes with the ability to grasp "the big picture"; insistence that others submit to his or her way of doing things; excessive devotion to work and productivity to the exclusion of pleasure; and indecisiveness.

Individuals with this disorder are stingy with their emotions and material possessions. For example, such an individual, having misplaced a list of things to be done, will spend an inordinate amount of time looking for the list rather than spend a few moments to recreate the list from memory and proceed with accomplishing the activities. Time is poorly allocated, the most important tasks being left to the last moment. Although efficiency and perfection are idealized, they are rarely attained.

Individuals with this disorder are always mindful of their relative status in dominance-submission relationships. Although they resist the authority of others, they stubbornly insist that people conform to their way of doing things. They are unaware of the feelings of resentment or hurt that this behavior evokes in others. For example, a husband may insist that his wife complete errands for him regardless of her plans.

Work and productivity are prized to the exclusion of pleasure and the value of interpersonal relationships. When pleasure is considered, it is something to be planned and worked for. However, the individual usually keeps postponing the pleasurable activity, such as a vacation, so that it may never occur.

Decision-making is avoided, postponed, or protracted, perhaps because of an inordinate fear of making a mistake. For example, assignments cannot be completed on time because the individual is ruminating about priorities.

Associated features. Individuals with this disorder may complain of difficulty expressing tender feelings. Considerable distress is often associated with their indecisiveness and general ineffectiveness. Their speech may be circumstantial. Depressed mood is common. Individuals with this disorder tend to be excessively conscientious, moralistic, scrupulous, and judgmental of self and others. (For example, a man believed it was "sinful" for his neighbor to leave his child's bicycle in the rain.) When they are unable to control others, a situation, or their environment, they often ruminate about the situation and become angry, although the anger is usually not expressed directly. (For example, a man may be angry when service in a restaurant is poor, but instead of complaining to the management, ruminates about how much he will leave as a tip.) Frequently there is extreme sensitivity to social criticism, especially if it comes from someone with considerable status or authority.

Impairment. This disorder frequently is quite incapacitating, particularly in its effect on occupational functioning.

Complications. Obsessive Compulsive Disorder, Hypochondriasis, Major Depression and Dysthymic Disorder may be complications. Many of the features of Compulsive Personality Disorder are apparently present in individuals who develop myocardial infarction.

Predisposing factors. No information.

Prevalence and sex ratio. The disorder is apparently common and is more frequently diagnosed in men.

Familial pattern. The disorder is apparently more common among family members than in the general population.

Differential diagnosis. In Obsessive Compulsive Disorder there are, by definition, true obsessions and compulsion, which are not present in Compulsive Personality Disorder. However, if the criteria for both disorders are met, both diagnoses should be recorded.

Diagnostic criteria for Compulsive Personality Disorder

At least four of the following are characteristic of the individual's current and long-term functioning, are not limited to episodes of illness, and cause either significant impairment in social or occupational functioning or subjective distress.

(1) restricted ability to express warm and tender emotions,

e.g., the individual is unduly conventional, serious and formal, and stingy

(2) perfectionism that interferes with the ability to grasp "the big picture," e.g., preoccupation with trivial details, rules, order, organization, schedules, and lists

(3) insistence that others submit to his or her way of doing things, and lack of awareness of the feelings elicited by this behavior, e.g., a husband stubbornly insists his wife complete errands for him regardless of her plans

(4) excessive devotion to work and productivity to the exclusion of pleasure and the value of interpersonal relationships

(5) indecisiveness: decision-making is either avoided, postponed, or protracted, perhaps because of an inordinate fear of making a mistake, e.g., the individual cannot get assignments done on time because of ruminating about priorities.

No. 83-465

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

EDWARD RONWIN,

Petitioner,

vs.

SUPREME COURT OF ARIZONA,

Respondent.

PETITIONER'S REPLY BRIEF TO RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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IN THE

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PETITIONER'S REPLY BRIEF

ARGUMENT

Respondent has filed a "Brief in Opposition," but it is not responsive to Petitioner's ("Ronwin") Petition for Certiorari.

Respondent argues the Schware v. Board of Bar Examiners of State of New Mexico, 353 U.S. 232, 77 S.Ct. 752, 1 L.Ed.2d 796 (1957) is the main case upon which Ronwin relies, Respondent's Brief at 33. That is

incorrect. Ronwin relies heavily on four other cases, Petition at 8-9, particularly that of Willner v. Committee on Character and Fitness, 373 U.S. 96, 83 S.Ct. 1175, 10 L.Ed.2d 224 (1963), for the proposition that Respondent cannot deny Ronwin's application for admission to the Arizona State Bar without prior notice to Ronwin of what charges Respondent wishes to bring and without a hearing at which the full panoply of due process is accorded to Ronwin, Goldberg v. Kelly, 397 U.S. 254, 261-262, 267-271, 90 S.Ct. 1011, 1017, 1020-1022 (1970).

Respondent addresses the Schware case by presenting a purported comparison between Mr. Schware's situation and Ronwin's. In the process, Respondent claims that Ronwin, "has consistently demonstrated through conduct and in writing his inability * * * to professionally engage in an adversarial situation," Respondent's Brief at 34. What conduct? Where is the record evidence on

the alleged conduct? Where has it been shown that Ronwin's conduct is evidence of lack of mental ability to practice law.[1]

That technique of making an assertion and then proceeding as though the bare assertion were true (even where the evidence is to the contrary, infra) is the consistent pattern employed throughout Respondent's Brief. But, nowhere do Respondents address the commands of Willner, 373 U.S. at 103-105, 83 S.Ct. at 1180-1181, Petition at 9-11, or explain why they are justified in ignoring those commands. In addressing Schware, Respondents have neither attempted a definition of mental ability nor demonstrated error in Ronwin's claims, Petition at 17-19, that Respondent's determinations of

[1] Ronwin has been a member of the Iowa Bar since 1974 and has handled numerous cases. Most of the cases have been concluded with judgment or settlement in favor of or satisfactory to Ronwin's clients. No charges of unethical or unprofessional conduct have ever been lodged against Ronwin. Without hearing, these matters do not come to Respondent's attention or enter into the record.

mental ability are "irrational and, as bad, a thinly veiled attack on Ronwin's First Amendment rights to vocalize his exposure of misdeeds by some parties connected with the judicial establishment in the State and District of Arizona,"Petition at 19.

Respondent presents a "Statement of the Case" which dwells on prior cases that Ronwin has filed in the U.S. District Court and which are essentially irrelevant hereto. Respondent purports to summarize each case; however, it fails to explain, except in one instance, that five of the seven U.S. District Court cases were brought after summary denial without hearing or notice of "what the Government proposes," Willner, 373 U.S. at 103-105, 83 S.Ct. at 1180-1181, Petition at 9-11.(One of the seven cases, Ronwin v. State Bar of Arizona, is now Hoover v. Ronwin, 82-1474, in this Court). Instead, Respondent hopes that by giving a skewed view

of allegations it attributes to Ronwin which involve persons connected with the State and Federal judiciary in Arizona, it will enlist the sympathy of this Court. The technique is identical to that employed by Respondent in its decision, Application of Ronwin, SB 52-8/52-9, opinion dated July 6, 1983, text at Appendix ("App.") to Petition at 1-55, and which forms part of the basis for the Petition; i.e., that instead of allowing due process as required by Willner and Goldberg, Respondent removes allegations from pleadings, briefs and documents in cases not before it for trial or hearing and without hearing on whether the allegations are true, acts on the allegations as though they were true and labels Ronwin as mentally unable to practice law by a process of "trial by judicial notice," Petition at 13-16.

For example in allegedly summarizing the case of Ronwin v. Gage, Civ. 78-214 PHX MLR, Respondent's Brief at 9, Respondent charges

that Ronwin "accused prominent attorneys (including his former counsel) of deceiving the Court as to the identity of a person who allegedly altered an official transcript." The allegation is left hanging with the implication that Ronwin is lying. Yet at 60-63, App. to Petition, the record evidence is set out to prove the allegation and that the "prominent" attorneys effectively admitted their deception of the Court, (see Petition at 14-15). But, Respondent has no more respect for the truth in its Brief than it had in its decision where it declared, App. to Petition at 34:

> * * * If the truth or his belief in the truth of these allegations were of importance to this decision, due process would entitle Ronwin to such a hearing.

The allegations are of importance to the decision because that is why Respondent claims it is holding Ronwin not mentally able and that is why the truth of the allegations must be determined in hearing.

As another example, Respondent writes, Brief at 32-33:

> Petitioner also submitted the medical report of Dr. Taylor, a psychiatrist who examined petitioner in Iowa. Although Dr. Taylor reported that he found no indication that Petitioner now suffers from any type of mental illness, disorder or defect, he acknowledged that Petitioner possessed personality traits 'which might be termed unpleasant or abrasive by those adopting positions in opposition to those held by [Petitioner].' Dr. Taylor could only state that it was 'possible' (not probable) that such personality traits would not impair Petitioner's ability to competently practice law..(emphasis (added)

That statement is a paraphrase of Respondent's decision, App. to Petition at 12, and the comments attributed to Dr. Taylor allegedly come from Dr. Taylor's 1977 report on Ronwin, which he reaffirmed in his 1980 report after a new examination. Respondent erroneously reports what Dr. Taylor said. What Dr. Taylor actually stated was, p.2 of his 1977 report:

> **Mr. Ronwin possesses certain personality traits which might be deemed unpleasant and/or abrasive by those adopting positions in opposition to those**

> held by Mr. Ronwin. I certainly would not relish the thought of appearing as an expert witness for the party in opposition to Mr. Ronwin's client and having to face cross-examination by Mr. Ronwin. It is impossible for me to conceive of a situation in which the above-mentioned personality traits would result in any actions being taken which might be deleterious to Mr. Ronwin's clients or which might, in any way, impair his ability to conscientiously and competently practice law. (emphasis added).

What Dr. Taylor said is diametrically opposite to what Respondent would have this Court believe; and Dr. Taylor emphasized his diagnosis 3 years later in his 1980 report.[2] A copy of both of Dr. Taylor's reports are in the Appendix to this Brief.

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[2] In the evidentiary hearing before the Iowa Supreme Court on June 22, 1977, Ronwin questioned Dr. Taylor on the point concerning the quoted description. The following dialogue occurred, p.17, line 17 to p.18, line 9 of the transcript of the Iowa hearing:

Q(By Ronwin) Why the descriptive adjectives that you used concerning the method of interrogation that I might use? Would you consider, however, that you did get any indication that would be out of the ordinary, violent, so unsocial or abusive that it would not be tolerable in your opinion?

A.(By Dr. Taylor) When I stated that I would be

With an evidentiary hearing, Respondent could not in good faith report the erroneous description of Dr. Taylor's testimony that they do.

Respondent's brief is replete with other misstatements of fact and erroneous conclusions. It is not the function of this brief to meticulously expose the errors; that is irrelevant at this juncture. There is, however, one flagrant abuse which needs address.

Respondent misuses the "compulsive personality" notion attributed to Ronwin, see

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2 Cont'd
uncomfortable on the witness stand being cross examined by you, what I meant was I didn't feel like I could get by saying any bull, that you would have thoroughly researched your case. You would have a thorough knowledge of background to the best of your ability,what I would be testifying to, and I better not slip up or I would be caught. I didn't mean to imply at all that it would be counterproductive. It would just be uncomfortable for me.

Q. All right. Do you feel uncomfortable today?

A. No.

Respondent's decision, App. to Petition at 12 and its Brief at 28-33. Since all three experts (Drs. Taylor, Canter and Duisberg) agreed that Ronwin was not mentally ill and was mentally able to practice law, even though two of them (Drs. Canter and Duisberg) thought that Ronwin had a "compulsive personality"[3], that should have been a bar

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[3]Dr. Duisberg admitted to Ronwin in telephone conversation that he did not have a basis from the one hour examination for holding Ronwin to be a compulsive personality. Ronwin has a tape of that examination proceeding, but in the absence of cross-examination and hearing, Ronwin has no way to elicit that admission from Dr. Duisberg under oath. Ronwin is confident he could elicit such admission from Dr. Duisberg and also from Dr. Canter. Ronwin holds a PhD in Biochemistry and was a professor at medical and similar universities for about 20 years before going to law school. Ronwin has done considerable original research in medical and chemical areas and has publications in evidence. Ronwin is not awe-struck by medical experts.

It is also a fact not able to be elicited for the record without a hearing and the ability to call witnesses that the "compulsive personality" state is not a category widely recognized by mental health experts, particularly psychiatrists.

to finding Ronwin not mentally able by resort to the "compulsive personality" notion. Instead, the members of Respondent Court, who are laymen in mental health matters and one of whom admitted in his deposition in Ronwin v. Gage, supra, and in his interrogatories in the same case that he was dependent on expert testimony to determine the mental state of any person,[4] simply push aside the essential finding by the 3 experts (confirming four earlier experts) that Ronwin is mentally able to practice law and attempt to, indeed, do label Ronwin not mentally able using the "compulsive personality" theme, which the experts, in effect,excluded as a basis for so holding. How can Ronwin ever demonstrate mental ability to practice law if the expert opinions not contradicted by any record evidence or testimony is simply discarded because it

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[4] Justice James Duke Cameron

does not suit the fancy of the members of Respondent Court? That is an impossible and irrational process surely barred by the Fifth and Fourteenth Amendments, Willner, Schware.

According to Dr. Canter, Respondent's Brief at 32, the compulsive personality is reflected in:

> ..restricted emotionality, perfectionism, the insistence that others submit to one's way of doing things, and excessive devotion to work productivity. These are elements which, according to the present psychological examinations, are most dominant in Dr. Ronwin.

Assuming, arguendo, that Dr. Canter's diagnosis is correct (see footnote 3 at 10 above), how does "restricted emotionality" prevent one from practicing law; and, really, what does the jargon actually mean?

Why is "perfectionism" a bad thing in a lawyer? The trouble with most lawyers is their lack of perfectionism which evidences itself in lack of preparedness for trial or other duties in their work; particularly

a notorious failure to sort fact from fiction, which is well illustrated by Respondent's Brief.

That many people want others to submit to their way of doing things is an age-old symptom of most of the human race. It is a universal phenomenon. Every boss or manager of every enterprise easily falls into that category. How would that make one "not mentally able" to practice law?

What is wrong with "excessive devotion to work productivity"? Why can't one work hard in America? Do we all have to be slovenly, sloppy, indolent and inefficient? Why is hard work a basis for finding one "not mentally able" to practice law?

The irrationality of Respondent's view of mental ability is glaring and it is unconstitutional, Schware, 353 U.S. at 238, 77 S.Ct. at 756.

Respondent's whole approach in this case is an appalling outrage; and, most import-

ant, rather than respond to Ronwin's claims as presented in the Petition, Respondent ignores the Petition and, using a technique which includes untruths, half-truths,plain nonsense and undisguised smear, Respondent hopes that by dint of its status, this Court will allow it to ignore the command of Schware and of Willner and to label perfectly sane men not mentally able to practice law; and hopes that this Court will allow it to summarily deny applications for admission to the bar without notice, hearing or due process; and will allow it to violate the basic tenets of our judicial system by use of "trial by judicial notice."

CONCLUSION

For the foregoing reasons and those in the Petition, the Writ of Certiorari should be granted.

Respectfully submitted,

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Petitioner pro se

DATED: October 19, 1983

(APPENDICIES FOLLOW)

[illegible] BOARD OF
PSYCHIATRY AND NEUROLOGY

ADULT PSYCHIATRY

MICHAEL J. TAYLOR, M.D.
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June 21, 1977

The Supreme Court of Iowa

Re: Edward Ronwin
Supreme Court #60678

Gentlemen:

On June 17, 1977, I conducted a 2½ hour interview with Mr. Edward Ronwin for the purpose of rendering an opinion as to whether or not Mr. Ronwin is mentally capable of practicing Law. The evaluation was conducted at the request of Mr. Ronwin in anticipation of a hearing regarding Mr. Ronwin's mental capabilities to continue to function as a licensed member of the legal profession in Iowa. I write to summarize the results of my evaluation of Mr. Ronwin. I shall also briefly summarize the information upon which my opinion is based and offer the Court a brief description of my qualifications and experience.

I am a Board Certified Psychiatrist licensed to practice medicine in the states of Iowa and California. I was certified by the American Board of Psychiatry and Neurology in June of 1976. I am presently Medical Director of the new 150-bed psychiatric inpatient unit to be constructed in Des Moines. Subsequent to having completed medical school and my psychiatry residency at the University of Iowa College of Medicine and prior to my return to Des Moines in September of 1976, I practiced in Stockton, California. In addition to serving on the faculty of the University of California, Davis, College of Medicine and as a psychiatric consultant to San Joaquin County Mental Health Services, I also served as a psychiatric consultant to the Superior Court of the State of California. In addition to performing numerous evaluations in both criminal and civil matters as a Court-appointed psychiatrist (an activity which frequently brought me into contact with a large number of different attorneys), I was also frequently called upon by either the Office of the District Attorney or by defense attorneys to offer opinions and advice. I feel that I have a full awareness of the pressures under which attorneys must frequently function, having assisted in the prosecution, in some cases, and the defense, in other cases, of several highly-publicized death penalty murder cases.

I am aware that Mr. Ronwin has had four previous professional evaluations regarding his psychiatric status. In November of 1974, Francis A. Enos, Ph.D. and Robert H. Barnes, M.D. submitted reports to The Committee on Examinations and Admissions of The Supreme Court of The State of Arizona. In December, 1974,

an evaluation was made by Howard S. Gray, M.D. Max I. Tuchler, M.D. submitted a report in July, 1975. An evaluation was performed by Hal J. Breen in August, 1976. Mr. Ronwin provided me copies of all of the reports from the above-mentioned evaluations and those reports have been thoroughly reviewed and taken into consideration in the formation of the opinion offered below.

Based upon my 2½ hour interview with Mr. Ronwin and upon the other information which has been available to me, I find absolutely no indication that Mr. Ronwin now suffers, or has at any time in the past suffered from any type of mental illness, mental disorder or mental defect. Mr. Ronwin possesses certain personality traits which might be deemed unpleasant and/or abrasive by those adopting positions in opposition to those held by Mr. Ronwin. I certainly would not relish the thought of appearing as an expert witness for the party in opposition to Mr. Ronwin's client and having to face cross-examination by Mr. Ronwin. It is impossible for me to conceive of a situation in which the above-mentioned personality traits would result in any actions being taken which might be deleterious to Mr. Ronwin's clients or which might, in any way, impair his ability to conscientiously and competently practice Law.

If further elaboration is required by either the Court or the Bar, either body should feel free to contact me.

Respectfully submitted,

Michael J. Taylor, M.D.

MJT/jl

MICHAEL J. TAYLOR, M.D.

1000 73RD STREET, SUITE 25
DES MOINES, IOWA 50311
515 223-[illegible]190

November 25, 1980

The Supreme Court of Arizona

Re: Edward Ronwin

Gentlemen:

On November 25, 1980, I interviewed Mr. Ronwin for approximately one hour for the purpose of determining whether or not there had been any change in his psychiatric condition in the interval since my original evaluation of him which took place on June 17, 1977, and the results of which were described in a June 21, 1977, letter to the Justices of the Iowa Supreme Court (appended hereto).

Based on the information gathered during my interview with Mr. Ronwin and based upon all of the information which was previously available to me at the time of my original report, it continues to be my opinion that Mr. Ronwin suffers from no mental illness, no mental disorder or mental defect. It continues to be my opinion that, as I described in the last major paragraph of my June, 1977, report, Mr. Ronwin would be a worthy adversary in any type of legal proceeding. I find no evidence of any impairment which might, in any way, impair his ability to conscientiously and competently practice law.

Respectfully submitted,

Michael J. Taylor, M.D.

MJT/jl